

WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL

SUMMARY

The Grand Jury reviewed a complaint related to a major Probation Department incident, which resulted in over 60 percent of an entire shift receiving disciplinary action up to and including discharge. The Grand Jury found the investigation to be incomplete and flawed.

The methodology employed by the Department in investigating the October 2001 incident was not expansive enough. The investigation did not cover personnel on two of the three shifts or the supervisors charged with overseeing them.

The training procedures the Probation Department had in place prior to October 2001 may have contributed to the probation officers and management neglecting their duties. The supervisors' conduct was not appropriately investigated, and some should have received disciplinary action equivalent to that of the disciplined probation officers.

The Grand Jury recommends that: (a) methods and procedures be clarified so that major incidents might be investigated by the San Diego County Internal Affairs Department or another appropriate outside agency; (b) the Core Training conducted by the San Diego County Probation Department of new probation employees for Juvenile Hall should begin no fewer than 90 days after initial employment; (c) there be a re-training of supervisory personnel at Juvenile Hall to become more aware of possible regulation violations by their subordinates; (d) the Probation Department arrange for Juvenile Hall personnel to be provided with a personal copy of the Juvenile Hall Policy and Procedures Manual.

PURPOSE OF THE STUDY

Based on information provided in a complaint and a review of relevant newspaper articles, the Grand Jury set out to answer the following questions:

1. What methods were used by the San Diego County Probation Department (SDCPD) in investigating the October 2001 incident, and were the investigations conducted in a fair and competent manner?
2. What other San Diego County agencies could have conducted the investigation?
3. Did the SDCPD thoroughly investigate the actions of the supervisors and management with respect to the proper training and supervision of the officers under their direction?

4. Where does responsibility rest when two-thirds of the SDCPD officers assigned to the late night shift violate regulations regarding hall checks over a seven-day period?
5. Prior to October 2001, did the SDCPD supervisors properly emphasize the importance of hall checks to the officers under their charge?
6. Were these supervisors aware that these hall checks were not being made in accordance with regulations?
7. Were Juvenile Hall supervisors adequately investigated for failure to enforce rules and regulations?
8. Did the SDCPD have in effect, pre-October 2001, written policies stressing the training procedures dealing with hall check regulations?
9. Did the Juvenile Hall Policy and Procedures Manual (Manual), wherein the hall check regulations were set forth, include other regulations and give the hall checks special emphasis?
10. Was the potential punishment for failing to make hall checks and making false log entries adequately specified in various probation department memoranda and instructions?
11. Are probation officers allowed to supervise wards at Juvenile Hall without first undergoing essential Standard and Training for Corrections (STC), otherwise known as Core Training?¹

BACKGROUND INFORMATION

Thirty-seven SDCPD officers and two student workers at Juvenile Hall received disciplinary action, related to incidents that occurred between October 11 –16, 2001. They were recorded by video cameras, failing to make mandatory hall checks of juvenile inmates every 15 minutes. These same probation officers falsely recorded in the daily log, maintained in each cellblock, that these hall checks had been made in accordance with regulations. The San Diego County Probation Department appointed a team of three investigators to review the videotapes and interview the involved probation officers.

Out of 57 probation officers investigated, 37 received disciplinary action by the Probation Department of which 23 demanded a hearing before the Civil Service Commission. The Civil Service Commission upheld the dismissals, as a San Diego Superior Court Judge did recently.

Upgraded video cameras were installed at Juvenile Hall in the late summer of 2001. The surveillance system was intended to provide security and protection for officers from inmates’

¹ These two courses plus other classes add up to over 186 hours of training.

false allegations of misconduct. The SDCPD investigation commenced after an assault complaint triggered a review of late night shift videotapes, for the week of October 11-16, 2001. This preliminary review of the incident showed that many officers were not making the mandatory 15-minute hall checks and were falsely recording, in the daily logbooks, that checks had been made in a timely fashion.

Late in October 2001, this matter was called to the attention of the management of the SDCPD. At least 39 people were involved, but the Probation Department (Department) chose not to use the services of the San Diego County Internal Affairs Department, which employs expert investigators. The matter was referred to the SDCPD Internal Affairs office. It was decided by the SDCPD Internal Affairs officer, with the approval of management, to have three Department supervisors from either the early night or the day shift at Juvenile Hall review these videotapes. During a preliminary investigation, these investigators found more violations on the late night shift than first identified. They were then authorized to review the videotapes, in detail. If violations were found they were authorized to interview the wrongdoers.

The interviewed officers admitted they had not made the hall checks and had falsified the logbook entries. Many said their supervisors were aware of the so-called practice of 'catching up' (that is signing off in the log book that they had made hall checks even if they hadn't done them or had performed them late) and condoned this practice. They stated that the supervisors wanted the log books to look correct rather than have entries showing late or missed hall checks, which would reflect poorly on the supervisors.

Investigators took statements from the supervisors who were accused, by the questioned subordinates, of being lax regarding the hall checks. The supervisors questioned, and their investigators (in most cases), held the same positions at Juvenile Hall and were peers. All supervisors interviewed denied any knowledge of the so-called practice of 'catching up'.

On November 6, 2002, members of the Grand Jury reviewed videotapes of the early night shift for October 11-16, 2001. (Juvenile Hall has three shifts designated as day shift, early night shift, and late night shift.) The videotapes reviewed included some overlap from the day shift. During this tape review, the Grand Jury observed officers from the early night shift failing to make the 15-minute hall checks. The late night shift received discipline for this same neglect to perform mandatory hall checks. The Grand Jury did not review the logs to see if false entries were made with regard to the missing or late hall checks. While conducting this videotape review, the Grand Jury was assisted by one of the original three investigators. S/he admitted that what the Grand Jury had observed were actual violations of the hall check and other departmental regulations.

The Manual provides that any staff member performing supervision of detainees must receive Orientation and Operations Training (40 hours) and Standards and Training for Corrections (STC – designated as Core Training – 135 hours minimum).² The Core Training has to be completed within the first year of assignment to Juvenile Hall.³ The Core Training includes extensive time

² Juvenile Hall Policy and Procedures Manual §2.10.6A1

³ Op. cit.

reviewing California Board of Corrections rules and procedures, including those concerning hall checks.

PROCEDURES EMPLOYED

The Grand Jury employed the following procedures:

- Interviewed many former and current probation officers who had worked at Juvenile Hall.
- Interviewed the Chief of the San Diego County Probation Department, Deputy Chief and many probation supervisors.
- Interviewed all principal investigators.
- Interviewed a probation officers' union representative.
- Interviewed attorneys who represented the probation officers before the Civil Service Commission.
- Reviewed newspaper articles, magazine articles, San Diego County Probation Department Manuals, Board of Correction reports, Juvenile Justice Commission reports, and Civil Service Commission documents.
- Reviewed Grand Jury selected videotapes for the week of October 11-16, 2001, covering the early night shift.

FACTS AND FINDINGS

- A. During the week in question there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.
1. The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.
 2. Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.
 3. The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.
 4. The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

5. The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of 'command influence'. This 'command influence' problem would not have been an issue had the County Internal Affairs Department conducted the investigation.
 6. The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as 'back up'. For the most part, a team of two investigators conducted each interview.
 7. This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.
 8. Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's 'Employee of the Year'. Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.
 9. The background check procedure for SDCPD officers is very involved and includes psychological testing.⁴ This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.
- B. The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.
1. Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.
 2. The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.
 3. Other security violations, such as 'popping doors' (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

⁴ It takes about 60 days to be screened eligible for employment. Screening includes: Voice Stress analysis, Medical analysis, and Psychological analysis. Juvenile Hall gets new staff every 2 weeks. New staff training includes: 2 weeks extensive training in CPR, Pepper Spray Certification, Paired and Shadowed by a supervisor for the first two weeks. CORE Academy is at Miramar College.

4. Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.
 5. The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.
 6. As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.
 7. Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.
- C. The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11 – 16, 2001.
1. Several of the officers interviewed stated that their supervisors were aware of the so-called practice of ‘catching up’ and had condoned this practice.
 2. Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.
 3. These supervisors denied having any knowledge of the ‘catching up’ practice and stated they would not condone it.
 4. The allegations, made by the officers, that supervisors knew of the practice of ‘catching up’ has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to ‘catching up’ the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.
 5. The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.
 6. The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

7. A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings represent.
- D. The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.
1. This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.
 2. The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.⁵
 3. After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.
 4. The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.
 5. In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.
 6. A Union Tribune article states that
... a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual [two months before workers were fired].⁶
 7. The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read
Re: Hall Check Policy, Date: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you

⁵ Juvenile Hall Policy and Procedures Manual §9.8.11.1

⁶ *Union Tribune*, 18 November 2002.

are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents.

- E. There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.
1. The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not “popping doors” (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.
 2. The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.
- F. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.
1. The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.
 2. The Grand Jury observed other safety related violations, such as “popping doors” and walking in front of wards.
 3. The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.
- G. Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.
1. Allegedly one officer did not receive Core Training within the first year.
 2. The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.
 3. SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that

would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

- H. SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

RECOMMENDATIONS

The 2002-2003 San Diego County Grand Jury Recommends that the San Diego County Chief Administrative Officer, San Diego County Board of Supervisors and the Chief of the San Diego County Probation Department:

- 03-60:** Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations which could ultimately result in the discharge of multiple employees.
- 03-61:** Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts are rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

The 2002-2003 San Diego County Grand Jury Recommends that the Chief of the San Diego County Probation Department:

- 03-62:** Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: ‘A hall check not written down is a hall check not done. A hall check must be recorded when completed.’
- 03-63:** Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.
- 03-64:** Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.
- 03-65:** Post all regulations dealing with hall checks and login procedures in the command center of each cellblock.

- 03-66:** Amend the Juvenile Hall Policy and Procedures Manual to contain a specific provision that violations of hall checks and log-in rules will subject the wrongdoer to a specific punishment such as discharge.
- 03-67:** Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that supervisors will be held accountable for the actions of those in their charge.
- 03-68:** Provide every probation officer and supervisor with a personal Manual, which they can keep in their possession.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) 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.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) 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 head 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.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or 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 agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required by the date indicated from:

<u>RESPONDING AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DATE</u>
CHIEF ADMINISTRATIVE OFFICER SAN DIEGO COUNTY	03-60, 03-61	08/12/03
BOARD OF SUPERVISORS, SAN DIEGO COUNTY	03-60, 03-61	08/12/03
CHIEF, SAN DIEGO COUNTY PROBATION DEPARTMENT	03-60 through 03-68	08/12/03