

2002-2003 SANTA CLARA COUNTY CIVIL GRAND JURY

INQUIRY INTO THE EFFECTIVENESS OF THE CHILDREN'S SHELTER

Summary

The 2002-2003 Santa Clara County Civil Grand Jury (Grand Jury) began an inquiry into the Santa Clara County Children's Shelter (Shelter) in response to an external complaint alleging that two girls from the Shelter were recruiting other girls within the facility for prostitution outside the Shelter. The inquiry took place over the course of seven months. The Grand Jury visited the Children's Shelter several times. Interviews were held with the Director of the Shelter, the Deputy Director, mental health and social services personnel associated with the Shelter, the Director of the Social Services Agency, the Director of the Department of Family and Children's Services, a judge of the juvenile court, members of the District Attorney's Office, the chief executive officer and the medical director of a community-based organization for children and families, and the director of a children's shelter foundation in another county. The Grand Jury also interviewed the Chief Financial Officer for the Social Services Agency of Santa Clara County and reviewed the Children's Shelter FY 2003 Staff & Operation Analysis. Incident reports were also reviewed and analyzed. The 2001 Management Audit of the Department of Family and Children's Services of the Social Services Agency prepared for the Santa Clara County Board of Supervisors by the Board of Supervisors Management Audit Division was reviewed, as well as the 1997-1998 and 1999-2000 Santa Clara County Civil Grand Jury Reports concerning the Children's Shelter. In addition, the Grand Jury reviewed the Children's Shelter Manual, statistical data, and numerous reports pertaining to the Shelter.

As a result of its inquiry, the Grand Jury found that there are serious problems at the Children's Shelter with youth who have behavioral and emotional challenges, and that an enormous amount of money is being expended with questionable outcome.

Background

In August 2002, the Grand Jury received a complaint alleging that girls in the Children's Shelter were being recruited by other girls to enter child prostitution under the control of male pimps outside the Shelter. The District Attorney investigated this matter and discovered that the girls had run away from the

Shelter and left the county. Therefore, the instances of pimping and prostitution took place out of the county, thus, out of the jurisdiction of the District Attorney and the Grand Jury. Although the Grand Jury was precluded from investigating this specific case, it decided to conduct an inquiry into the Children's Shelter, pursuant to Section 925 of the Penal Code.

For many years, the Santa Clara County Children's Shelter was located on Roberts Avenue in San Jose and was operated by the Juvenile Probation Department. It was described as "minimalistic and institutional." In 1990 the Social Services Agency took over the operation of the Shelter. A partnership between Santa Clara County and the Silicon Valley Children's Fund, a private, non-profit group, was formed to build a new Children's Shelter located on Union Avenue in San Jose, and it was completed in 1995. This was designed to be a safe, short-term, place for children.

Discussion

The Children's Shelter is a facility for children awaiting placement in foster homes, group homes or in the ideal situation, reunification with their families. The Children's Shelter temporarily houses these children while they await an appropriate living arrangement. However, many of these children remain in the Shelter for lengthy stays or have multiple admissions.

The Shelter consists of six cottages. The children are separated by age, sex and intensity of behavior, although they are allowed to congregate in common areas. The Shelter includes administration offices, a kitchen and dining building, a recreation center, two playground areas, the McKenna School, operated by the Santa Clara County Office of Education, and a building that includes a mental health clinic and medical clinic operated by the Santa Clara Valley Health and Hospital System. During the month of March 2003, the average daily population was 55. The total number of children residing at the Shelter during this month was 171. The ethnic breakdown of the children at the Shelter was reported to be as follows: 95 were of Hispanic ethnicity, 48 Caucasian, 12 African American, 5 Vietnamese and 11 whose ethnic background was listed as unknown.

Children are brought to the Shelter 24 hours a day, seven days a week, generally by police. Initially, a social worker assesses and evaluates the child's needs. The social worker then seeks an alternative placement if one is available. If the child remains in the Shelter, a petition is filed with the Superior Court within 48 hours to establish jurisdictional custody. By the next judicial day, a detention hearing is held to determine if the child should stay longer at the Shelter. Within the next 15 days a hearing is held and, if the child is declared a dependent of the court, the child may remain at the Shelter until an appropriate placement is found. All children receive a comprehensive medical examination upon admission. Upon

referral by staff, additional mental health or psychiatric assessments may take place.

The Children's Shelter has a full-time equivalent staff (FTE) of 160.5, spread over three shifts a day, seven days a week, including the ancillary personnel. Seventy-seven of these employees are children's counselors or associate children's counselors. The educational requirement for these positions is an AA Degree (or equivalent experience), plus one year of experience. There are also 17 senior children's counselors with either a BA/BS Degree or equivalent experience. The six cottage managers must have a Master's Degree, four years of experience in children's services, and two years of supervisory/management experience.

Children are placed in the Shelter because they have been abused, neglected or abandoned, or are in danger of harm. When children are removed from their homes by the Court or by law enforcement, it is for their protection. Some are children whose families cannot handle their very serious behavioral problems.

When a social worker has been sent to investigate a report of child abuse or neglect and makes a determination that the child is in danger, the child may be taken into protective custody and temporarily housed at the Shelter. In order to take a child into protective custody, social workers and/or law enforcement officers must have reasonable cause for believing that a child has been abused or neglected or is at risk of abuse or neglect, as defined by California Welfare and Institutions Code Section 300. Also by law, police are permitted to take children into protective custody when they believe a child is in danger of harm. The police are often called to a home when there is domestic violence or to the scene when parents are injured. Policy requires that anyone placed in a patrol car be handcuffed for the safety of the police officer. Many times the youth, especially teenagers, are transported to the Shelter in handcuffs.

Children who witness serious disruptive behavior by their caretakers and/or are emotionally abused, often develop severe emotional and behavioral problems. These youth are among the most at-risk population in the county. The fear of being disloyal to their families exacerbates the pain of their separation and makes adjustment to the Shelter difficult. Childhood abuse increases the odds of future delinquency and adult criminality; therefore, it is essential that all children, especially young children, be able to live in a nurturing, supportive and stimulating environment.

In too many cases, the Shelter cannot provide either the safety or the protection that these children need. Incident reports furnish specific evidence of this failure. According to the Children's Shelter Manual, an incident report is a legal document, which may be used as evidence in Court. The report also serves as an informational instrument on the child's behavioral or medical problems. Any incident or problem concerning the health, safety or welfare of a minor or staff member or any incident resulting in potentially newsworthy reporting should have

an incident report. An incident report is sent to Community Care Licensing, the District Attorney's Office and the social worker. After reviewing 622 incident reports from the Shelter for the period from August 2002 through February 2003, it was apparent to the Grand Jury that youth at the Children's Shelter are

- hurting themselves;
- acting out aggressively towards other children and staff;
- sexually abusing other children;
- contemplating suicide and, indeed;
- making suicide attempts.

In November 2002, for example, there were 42 acting-out reports; 14 assaults on staff/youth; 10 threats to staff/youth; 10 accidental injuries; 9 incidents of self harm; 3 suicide threats and 41 other types of incidents, including property destruction, contraband, drug use and sexual perpetration. All of this occurred during a time when the average daily population was 54.

Older children in the Shelter can influence or abuse younger ones who have been placed in the Shelter for their protection. The daily contact that these children have with one another often results in children abusing each other, harming themselves, and running away. There is evidence of child-on-child physical and sexual abuse. The Grand Jury has confirmed from members of the District Attorney's Office and the Juvenile Court Bench that the county has settled lawsuits filed on behalf of children who were physically and sexually abused while living at the Shelter.

During this inquiry, it was discovered that, under state law, children who have not violated any law cannot be kept in a locked facility. This was the case of the girls in the complaint who were engaged in pimping and prostitution. This makes it difficult to safeguard children, especially older youth, who are placed into the protective custody of the Children's Shelter. Many of the youth in the Shelter are streetwise and use the facility to come and go at will. As a result, some of them are readmitted a number of times during the course of a year. Some who run away are never heard from again, and their whereabouts are unknown. In addition, some children for whom alternative placements have been found display behavioral problems that result in the termination of their placement in foster or group homes and they return to the Shelter.

The Adoption Assistance and Child Welfare Act of 1980, (Public Law 96-272), 42 U.S.C., sec. 670 et seq. (1989) and The Adoption and Safe Families Act of 1997 (Public Law 105-89) both emphasize the importance of placing children in families. Congregate care (such as at the Children's Shelter) is the least preferred alternative for placement under the law. Studies show that there are serious concerns that placing children in an institution creates negative results. Sexually acting-out youth tend to act out even more in a congregate care setting and self-destructive behaviors escalate. Congregate care is not developmentally normative. Living at the Shelter provides those children with an institutional setting as a

frame of reference and they adapt to the institution. Research has found that even in small, well-run institutions, children develop a range of negative behaviors. Additionally, the law states that children should be assigned to the placement that is the least detrimental, whereas congregate care, as evidenced by the Shelter's incident report record, appears to be the most detrimental alternative.

The FY 2003 Budget for the Children's Shelter is \$11,072,606 for salaries, plus \$2,652,539 for services and supplies, for a total of \$13,725,145. As of February 2003, expenditures for the fiscal year were projected to be \$571,894 (4.2%) over budget, for a total of \$14,297,039. In interviewing the Chief Financial Officer of the Social Services Agency, the Grand Jury learned that the county pays \$8,415,000 of this total and that state and federal programs combined supply the balance. The Silicon Valley Children's Shelter Fund provides additional monies for special programs. In 2001 it provided \$69,000 for such programs.

The FY 2003 Budget was based on a projected population of 100 children. This assumption would indicate an average cost of \$11,438 per child per month. Since the population is normally less than 100, indeed is generally in the neighborhood of 60, the average budgeted cost is closer to \$19,063 per child per month.

The Grand Jury was informed that, as a result of necessary budget cuts throughout the county, the Shelter will be reducing staff by 22 positions and closing one cottage. Even though approximately one-half of the 22 employee positions are currently not filled, and the child population is significantly less than budgeted for, it is alarming that there will still be a projected budget overrun of approximately half a million dollars.

The Children's Shelter is assisted by joint ventures with several other children's services programs. It contracts with EMQ Children & Family Services, a community-based organization for behaviorally challenged children and youth. EMQ has developed the Matrix Program to meet the individual needs of youth from the Shelter who are the most behaviorally challenged (i.e., at-risk youth). It utilizes community resources as much as possible to foster independence from the public system and provides a less restrictive and more normal living situation for youth. The Matrix Program has taken 30 youth from the Shelter since November 2000. The Starlight Treatment Facility is another outplacement option for some children. It provides treatment in a secure locked facility for adolescents who are seriously emotionally disturbed.

A deputy sheriff and a detective from the Sheriff's Office are now assigned to the Shelter. The deputy sheriff works to discourage children from running away and helps process the runaways back into the Shelter when they return. The detective is responsible for investigating incidents in the community when adults are involving the children from the Shelter in criminal activity, either as victims or accomplices. They both consult with the San Jose Police Department when a child has committed an offense at the Shelter or in the community. Despite the

increased surveillance, 54 runaway incidents occurred during the period from October 2002 through March 2003, and 24 of the youth were listed “whereabouts unknown.” There were two critical incidents in February involving teen boys who threatened suicide. After a stay at Valley Medical Center, one was returned to the Shelter and the other was transferred to a treatment facility in Fremont.

Efforts by the county, in cooperation with other agencies, have helped to decrease the population at the Shelter by almost 50% since the Management Audit of 2001; however, the incident reports and runaways are still alarmingly high. The staff has increased supervision in some cottages where many of the disruptive youth are on a one-to-one ratio with their counselors. The incident reports reflect that this close supervision is not without its own problems because it creates an added stress, both on the child and the counselor.

Many children, who are already traumatized by the fact that they have been separated from their families, are taken to the Shelter in police cars and, as already noted, are forced to wear handcuffs. Social Services and the San Jose Police Department have agreed to conduct a pilot project in one area of San Jose, wherein a social worker will accompany the police when responding to a family in crisis. This arrangement decreases the stress of police transport for the child, allows Social Services to make timely alternative placements, and provides early intervention, referral, and/or follow-up services for problematic families. The San Jose Police Department and Social Services have recently allowed parents being arrested for non-abuse reasons to arrange for other adults to provide temporary care for their children in order to avoid institutional care.

Conclusion

The Grand Jury acknowledges the efforts that many citizens and officials have put into constructing and operating this Children’s Shelter. Although the Children’s Shelter in Santa Clara County was hailed as a benchmark at the time of its construction, and many efforts have been made to provide for the care and treatment of the children in a congregate environment, evidence indicates it has not achieved its goal of providing a safe, nurturing and temporary environment for children awaiting placement. The very serious behavioral and mental problems that exist must be addressed vigorously. These at-risk children have been entrusted to the community’s care. It is crucial that the community carry out that responsibility by providing the best alternative.

Concerned citizens have made efforts in the past to point out the problems which exist at the Shelter and to encourage the authorities to act, i.e., past Grand Jury Reports and the Management Audit Report. While some remedies and improvements have taken place, problems persist. Clearly, a new approach is needed.

During the course of its inquiry, the Grand Jury learned that recent social science research has suggested some innovative and promising approaches to caring for children who are now housed in congregate-type environments, like the Shelter. Due to the very serious and persistent nature of the problems encountered at the Shelter, the Grand Jury believes it is time to enlist the help of those individuals familiar with both the latest literature in the field and the on-the-ground success stories. At this critical juncture, the community can only benefit from the analysis and advice offered by a diverse panel of experts committed to creating the best environment for our abused and neglected children.

Finding I

There are a number of unresolved problems at the Children's Shelter, notably the runaways, the physical abuse perpetrated upon the staff and other residents, the children sexually abusing each other, the recidivism rate, and the lengthy stays for many teenagers.

Finding II

Despite the fact that a full-time deputy sheriff and a detective from the Sheriff's Office are now assigned to the Shelter, they cannot stop youth from running away because the Shelter is not a locked facility.

Finding III

Based on the incident reports, the Grand Jury found that there are children at the Shelter who are severely emotionally disturbed.

Finding IV

Congregate care is not developmentally normative. Living in an institutional setting establishes this as a frame of reference for the children as they adapt to the institution. The congregate care of children who have been abused and/or neglected provides the opportunity for the abused to become an abuser.

Finding V

The estimated cost for the overall operation of the Children's Shelter in Fiscal Year 2003 is approximately \$19,000 per month per child, based on an average daily population of 60, with questionable outcomes for these children.

Finding VI

The Management Audit prepared for the Board of Supervisors in 2001 and past Grand Jury Reports highlighted the many problems that have existed at the Shelter and offered possible remedies. Social Services has addressed some of these issues, but despite past efforts to implement solutions, it is obvious that the problems still exist.

Recommendation

The Grand Jury learned that the problems at the Children's Shelter are serious and complex in nature. Therefore, the Grand Jury strongly recommends that the Board of Supervisors appoint a Blue Ribbon Task Force consisting of national, state and local experts in child welfare and child development. It should also include a representative from the Juvenile Court and a mental health expert who has experience with abused and neglected children. This Task Force should provide an in-depth study of the needs of our children who are taken into protective custody, and identify the optimum programs and/or new approaches for their care.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 27th day of May, 2003.

Fred de Funiak
Foreperson

Ron R. Layman
Foreperson Pro Tem

Patricia L. Cunningham
Secretary

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