



2006-2007 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

PROBATION DEPARTMENT'S RESTITUTION PROGRAM FAILS VICTIMS AND WARDS

Summary

Santa Clara County has established a method through the Probation Department that authorizes the payment of restitution to victims of juvenile crime and pays juvenile offenders (wards) for their labor efforts. Two funds were created: (1) Juvenile Court Trust Fund (0316 Fund) for the payment of restitution: and (2) Probation Ranch Enterprise Fund (0320 Fund) for the payment of court-ordered fines, fees, victim restitution, and the wards' labor. As of April 2007, these funds held a combined balance in excess of \$200,000, of which over \$100,000 is considered available for the above-stated purposes under current Probation Department guidelines.

A review by the Santa Clara County Civil Grand Jury (Grand Jury) revealed numerous issues regarding administration of these funds. In the case of the 0316 Fund, there has been no activity other than accrual of interest in the fund for the last four years even though the Fund was established for restitution. In the case of the 0320 Fund, there was evidence suggesting that the Fund was not being used for two of its stated purposes: restitution and labor compensation. To date, victims have received less than \$900. Less than \$300 has been paid to compensate wards for their labor.

The Grand Jury found that the effect of the current guidelines is that many victims of juvenile crime never receive restitution and wards are not paid for their labor. The current Probation Department guidelines call for the victim restitution and labor compensation to be paid after the ward has completed not only the Ranch programs, but also an intensive ten-week Aftercare Program. Currently, over 50 percent of the wards that enter the Aftercare Program do not complete it. The result is that the 0320 Fund has grown from \$19,000 in Fiscal Year 2003 to \$205,000 in Fiscal Year 2007.

The Grand Jury recommends that the Probation Department start administering the 0320 Fund to ensure that victim restitution is paid in all eligible cases and that wards be compensated for their labor. The Grand Jury also recommends that the guidelines be modified to allow for restitution and labor compensation upon release from the Ranch Program rather than completion of the Aftercare Program.

Discussion

Under Article I of the California Constitution, victims have a constitutional right to restitution, and the Legislature has found that restitution has a rehabilitative effect on

criminals and serves as a deterrent to future criminality. In addition, the California Welfare and Institutions Code, Section 884 states:

The Board of Supervisors may provide for the payment of wages and pay such wages from the treasury of each county to the wards for the work they do, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward himself, in such manner and in such proportions as the court directs.

There are two funds, 0316 and 0320, specifically designed to pay the victims of juvenile crimes. The Grand Jury conducted a review of these two funds.

Santa Clara County has established, through the Probation Department, a program that assists juveniles incarcerated at the William F. James Boys Ranch and the Muriel Wright Residential Center in paying court-ordered restitution to the victims of the ward's crime. The program also provides payment to the wards for their labor performed while incarcerated at these two locations. The program is titled the Ranch Enterprise Program. Under this program, the 0320 Fund was created to accomplish three goals. The first goal was to establish a self-funding vocational education program. The second goal was to provide a source of funds to assist the wards in paying court-ordered fines, fees, and restitution. The third goal was to pay the wards for their labor. The 0316 Fund, based on monies collected from the wards, their families, and the Social Security Administration was established as a restitution fund. Sources of the revenue are from the labor contracts entered into by the Probation Department, sales of products, donations, and interest. The program authorizes "compensation to the wards participating in the Ranch Enterprise Program, provided any compensation is first applied toward any court-ordered restitution or fine." The 0320 Fund can be used to purchase raw materials, tools, and equipment needed for the program; pay court-ordered restitution fines and fees against the minor's compensation; and to enhance the Ranch Enterprise Program.

The Mission Statement for the Probation Department reads in part:

As an integral part of the justice system, the Department is committed to building partnerships with the community and restoring losses to victims of crime and the public through innovative programs that stress offender accountability and development of competency skills.

The establishment of these funds in 1982 by a resolution of the Santa Clara County Board of Supervisors (BOS) states that "one hundred percent (100%) of the funds would be levied against the costs assessed for wards' maintenance at Rehabilitation facilities and redistributed by the Chief Probation Officer at the Juvenile Court's direction."

When the Ranch Enterprise Program was created, it was the intent to compensate wards for work participation. However, the program was initially designed to reach a self-sustaining level of \$100,000 before paying court-ordered fines, fees,

restitution or labor. This level was reached in 2004. By 2007, the sum of these funds exceeded \$200,000. Yet, only \$900 has been paid to victims of juvenile crime and there has been only \$300 paid to wards for their labor. The guideline calls for restitution not to be paid until the ward has completed the Ranch Enterprise Program and also has completed a ten-week Aftercare Program. The Aftercare Program is a ten-week phase of the program which transitions wards back to the community. These activities include family counseling, domestic and sex offender counseling, and participation in new programs which address specific ward needs. Currently, only 48 percent of the wards are completing the program, which results in the victims of their crimes not receiving restitution. The release of the wards back into their original environment and requiring a ten-week period has proven to be too great an impediment to the completion of the intensive Aftercare Program. Linking the Aftercare program to victim restitution fails to take into account the dynamics of the juvenile mind.

The Grand Jury reviewed the recommendations contained in the Santa Clara County Juvenile Justice Commission's Annual Report. In the reports issued for 2005-2006 and 2006-2007, the Commission stated they have been recommending the Probation Department start restitution since 2004. The Department has failed to comply.

Conclusion

The 0320 Fund, established by the BOS and administered by the Probation Department, provides for the establishment of vocational opportunities for wards who are placed at the ranches. The programs generate revenue through the sale of products and through ward labor on various work programs. The Fund was designed to be self-sustaining. After achieving the self-sustaining level, restitution was to be paid to victims of the wards' crimes and any remaining funds were to be used to compensate the wards for their labor. The Grand Jury found that even though the sustaining level was reached in 2004, there has been minimal victim restitution and labor compensation.

Findings

The following findings were reviewed with the subject agency:

- F1:** The 0316 Fund and the 0320 Fund are not being administered in a manner that complies with the intent of the BOS, State, and guidelines of the Probation Department.
- F2:** The policy of requiring wards to successfully complete the Aftercare Program before paying restitution penalizes victims of juvenile crime. Only 48 percent of the wards are completing the program.
- F3:** Other than the six wards who were eligible, no one who has participated in the 0320 Fund program has received payments for their labor.
- F4:** No payments from the 0316 Fund have been made during the past four years.
- F5:** Upon achieving the \$100,000 benchmark goal in 2004, there have been minimal restitution and labor payments contrary to Probation Department guidelines.

Recommendations

The 2006-2007 Civil Grand Jury recommends that the Probation Department take the following actions:

- R1:** Publish a yearly management report to the BOS which provides details of victim restitution and ward compensation paid over the previous twelve months.
- R2:** Revise the Probation Department guidelines for restitution from the 0320 Fund to stipulate that victims are to be paid upon the completion of the Ranch Program by the ward.
- R3:** Revise the current Probation Department guidelines to pay for wards' labor once they have completed the Ranch Program and restitution has been paid.
- R4:** Pay restitution to victims out of the 0316 Fund and close this fund after it is depleted.
- R5:** Pay restitution to uncompensated victims and compensate wards who have completed the Ranch Program since 2004.

Bibliography

Beckman, Mary. "Crime, Culpability and the Adolescent Brain," *Science Magazine*, July 30, 2004, 305:596-599.

California Constitution, Article I, Section 28.

California Welfare and Institutions Code, Sections 725-742; 884.

County of Santa Clara. *A Resolution Of The Santa Clara County Board Of Supervisors Relating To The Compensation Earned By Wards Of The Juvenile Rehabilitation Facilities And To The Distribution Of Said Monies*, adopted August 3, 1982.

County of Santa Clara. *Resolution Of The Board Of Supervisors Of The County Of Santa Clara Relating To The Probation Department Juvenile Rehabilitation Facilities, Ranch Enterprise Program*, adopted March 28, 2006.

Juvenile Justice Center. 2004. Adolescence, *Brain Development and Legal Culpability*. http://www.gpdsc.com/resources-juvenile-practice_info-adolescent_brain_development.pdf

National Institute of Mental Health. 2001. *Teenage Brain: A Work in Progress*. <http://www.nimh.nih.gov/publicat/teenbrain.cfm>

Santa Clara County Juvenile Justice Commission Inspection Report. *William F. James Boys Ranch*, 2006.

Santa Clara County Juvenile Justice Commission Inspection Report. *William F. James Boys Ranch*, February 2007.

Interviews

December 8, 2006	Interviewed Probation Department officials.
January 26, 2007	Interviewed Department of Revenue officials.
February 16, 2007	Interviewed Probation Department official.
March 16, 2007	Interviewed Probation Department officials.
March 23, 2007	Interviewed Santa Clara County Internal Audit official.
April 19, 2007	Interviewed Santa Clara County Juvenile Justice Commission member.
April 23, 2007	Interviewed Santa Clara County Juvenile Justice Commission member.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 24th day of May 2007.

Ronald R. Layman
Foreperson

David M. Burnham
Foreperson Pro tem

Kathryn C. Philp
Secretary