

2004-2005 MARIN COUNTY CIVIL GRAND JURY

HIV in Prisoners: A Threat to the County?

Date of Report: March 16, 2005

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

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In accordance with California Penal Code 919 (b), the Marin County Civil Grand Jury (Grand Jury) carried out its mandate to "inquire into the condition and management of public prisons within the county." To this end, the Grand Jury toured the San Quentin State Prison, the Marin County Jail, and the Marin County Juvenile Hall. The Grand Jury was presented with fairly detailed information regarding their management, including programs, their facilities, and the prison administration's attitude toward the prevention of sexually transmitted diseases (STDs), including HIV/AIDS.

Last year, the 2003–2004 Grand Jury wrote a somewhat extensive report regarding these aspects of the three facilities. This year, the 2004–2005 Grand Jury finds that it concurs with the previous report and essentially has very little to add to it. It should be noted, however, that the then Warden of San Quentin has been promoted to the position of head of the statewide California Department of Corrections and has been succeeded by a new warden. Further, as noted in the previous report, although the Marin County correction facilities are excellent and modern, those at San Quentin are antiquated and overcrowded.

The Grand Jury was perplexed by one thing that it found during this year's tour of the state prison. It was told that, contrary to what is portrayed on television, there is very little rape or other sexual contact occurring in the prison. When they asked about sexually transmitted diseases (STDs) and particularly about HIV/AIDS, arguably the most pernicious of the STDs, the Grand Jury was told that there were very few "reported" rapes, which appeared to be a disingenuous answer. When queried about the distribution of condoms to the inmates, which could help in preventing the transmission of STDs, the prison spokesman indicated that it is not being done. Ostensibly this was because, by law, sexual contact in the prisons system is illegal and that the provision of condoms would, in essence, condone an illegal act. There were further concerns about condoms being used to hide contraband, such as drugs. (note: Condoms are distributed for use during conjugal visits.)

Paradoxically, however, it appeared the prison administration did acknowledge that sexual contact, indeed, does occur, with concomitant transmission of disease. Prisoners were exhorted to "Don't get mad, use glad" a reference to the use of Glad[®] Wrap, which was used on their sandwiches, to serve as surrogate condoms.

The Grand Jury became concerned about the public health aspects of the attitude towards the prevention of STDs within the prison population and its impact on the general population upon the release of infected prisoners.

To its dismay, the Grand Jury found during preliminary inquiries that very little verifiable hard data exist regarding STDs in the state prisons and even in the county penal system. Largely this is because of confidentiality concerns (particularly for HIV/AIDS) and perhaps a lack of interest in the subject. Similarly, the Grand Jury also was unable to discover appropriate procedures to ensure that these highly infectious diseases would not be carried from the prisons into the community.

This precluded the Grand Jury from embarking on an extensive investigation at this time. Nevertheless, the Grand Jury's inquiries have piqued the interest of the Marin County

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Health and Human Services Department, which has decided to pursue the matter as it pertains to public health in the county.

The Grand Jury applauds this decision and encourages the Marin County Department of Health and Human Services to continue its exploration into the prevention of STDs (including HIV/AIDS) within the prison population and into the impact STD infected prisoners have on public health after their release into the general population.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, no responses are required to this report.