

SAN JOAQUIN COUNTY

# *Grand Jury*



FINAL REPORT  
2009-2010

## **What is a Grand Juror?**

- Someone who wants to make a difference
- Someone who believes in honesty
- Someone who asks “Why?”
- Someone who knows the meaning of confidentiality
- Someone whose reports will live longer than they do
- Someone who can work with people they don’t agree with
- Someone who can intellectually defend his or her position
- Someone who learns there really are two sides to every story
- Someone who realizes they will never do all they want to do in a year
- Someone who knows they can accomplish more in a group than they can alone
- Someone who feels good about the work they produce
- Someone who is fed up with people who only complain about how things are
- Someone who asks questions no one wants to answer
- Someone who realizes that no grand juror is more important than the grand jury
- Someone who realizes that no grand jury is more important than the grand jury system
- Someone who will make meaningful friends with a common unique bond for life

***Serving the people of San Joaquin County by preserving government integrity.***

### **Grand Juror Oath**

I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into and true presentment make, of all public offenses against the people of this State, committed or triable within this County, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given to me by the Court.

## **Contents**

Section I: Introduction .....	1
Section II: Grand Jury Process and Organization.....	6
Section III: Investigations .....	13
Section IV: Law and Justice .....	72
Section V: Follow-Up .....	102
Section VI: Activities.....	178

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# *Table of Contents*



## The Superior Court

222 E. WEBER AVENUE, ROOM 303  
STOCKTON, CALIFORNIA 95202

*Hon. George J. Abdallah  
Judge of the Superior Court*

TELEPHONE  
(209) 468-2827

June 18, 2010

The Superior Court of California, County of San Joaquin thanks and commends the 2009-2010 Civil Grand Jurors for their conscientious efforts on behalf of all San Joaquin County citizens. Guided by the experienced and able leadership of Foreperson, Chet Somera, the Grand Jurors undertook and completed their duties with great industry, intelligence and care in the service of their fellow citizens.

The Civil Grand Jury is composed of qualified individuals drawn at random from the community and those nominated by community leaders. The chosen citizens serve as an independent body under the court's authority. The 2009-2010 San Joaquin County Civil Grand Jury now takes its place in a long history of citizen involvement in civic life which was born in the English Common Law of 1166, adopted during the American Colonial period and codified in California in the 1880's. The 2009-2010 Civil Grand Jurors' thoughtful and constructive recommendations will help ensure the highest quality civic life to which all citizens are entitled.

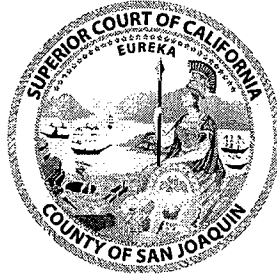
As the Judge Advisor, it has been my privilege to review the work of the 2009-2010 Civil Grand Jury. This committed group of citizens delved into a broad range of issues which touch the lives of citizens throughout our communities. Additionally, the Grand Jurors made unprecedented efforts to follow through on the work of their predecessors thereby assuring their fellow citizens that the San Joaquin County Civil Grand Jury as an institution maintains a sustained role in our community.

The efforts, commitment and collective wisdom of these devoted citizens has and will continue to better the civic life of all San Joaquin County residents. To each member of the 2009-2010 San Joaquin County Civil Grand Jury, for your many accomplishments the Superior Court extends its gratitude and congratulations.

A handwritten signature in cursive script that reads "George Abdallah".

Hon. George J. Abdallah, Jr.  
Judge of the Superior Court  
Advisor to the San Joaquin County Civil Grand Jury





*San Joaquin County Grand Jury*  
*2009/2010*

June 17, 2010

Hon. George J. Abdallah, Jr.  
Judge of the Superior Court  
Advisor Judge to the Grand Juries  
The Superior Court  
222 East Weber Avenue, Room 303  
Stockton, California 95202

Hon. Robin Appel  
Presiding Judge of the Superior Court  
The Superior Court  
222 East Weber Avenue, Room 303  
Stockton, California 95202

Dear Judge Abdallah and Judge Appel:

It is an honor for me to present the 2009-2010 Grand Jury Final Report. This report is an effort by a group of dedicated citizens working together to investigate and report government in a fair and accurate manner. This report provides a variety of findings, recommendations and recognitions which will be of great value to the citizens of San Joaquin County.

I am proud to be associated with the members of the Grand Jury selected at random to serve the Citizens of San Joaquin County. This Jury attended several site visits (some mandatory), observed numerous presentations, participated in an individual ride-along program with public safety, interviewed countless witnesses and labored over several complex issues.

Overall, the Grand Jury reviewed fifty citizen complaints; nineteen were not within our jurisdiction, eleven were concerning county and city government, eleven were concerning law enforcement, five were concerning school districts and four were concerning special districts/commissions. The Jury conducted fifteen new investigations, fourteen of which reports were written. The Jury also conducted nine accountability reviews and investigations from past Grand Juries and eight law and justice investigations all of which have written reports.

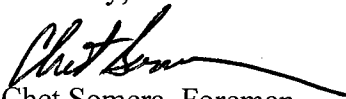
I appreciate and thank those individuals who appeared before the Grand Jury and cooperated in our investigations. We understand the hardships these interviews may cause; however, it is just as important, if not more important, for the Jury to conduct a thorough investigation to provide the best account of the truth.

On behalf of the Grand Jury, I thank Judge Abdallah, Chief Deputy District Attorney Scott Fichtner and County Counsel David Wooten for their guidance and insight. I would like to give a special thank you to Trisa Martinez, Judicial Secretary/Grand Jury Staff Secretary for her hard work and dedication.

I encourage all able citizens in our county to serve at least one term on the Grand Jury. It is an amazing learning opportunity as to the true inner workings of our local government.

Thank you for the opportunity to serve the Court and the citizens of San Joaquin County.

Sincerely,

A handwritten signature in black ink, appearing to read "Chet Somera", with a long horizontal flourish extending to the right.

Chet Somera, Foreman

2009/2010 San Joaquin County Grand Jury

## **Roster of Grand Jurors**

### **Executive Committee**

Chet Somera Foreperson	Lodi	Police Lieutenant, Retired
Gene Andal Vice-Foreperson	Stockton	County Parks & Recreation Director, Retired
Iris Kestler Secretary	Manteca	Security Specialist
<hr/>		
Terrence Harris	Tracy	Training Specialist
Kathlyn Hayes	Manteca	Special Education Paraprofessional, Retired
Teresa Henry	Stockton	Training Facilitator (Federal Government)
David Jackson	Manteca	Law Enforcement, Retired
William Logan	Stockton	Self-Employed Auto Dealer, Retired
Lina Longmire	Tracy	Court Administrator, Retired
Karen Migliori	Stockton	Education & Disabilities Supervisor, Retired
Bernard Oeding	Morada	Accountant, Retired
Christopher Parker	Tracy	Fire Captain, Retired
Andrew Pinasco	Stockton	Controller, Plumbing & Heating Company
Marvin Primack	Stockton	Anesthesiologist, Retired
Anthony Rantz	Lodi	Engineer, Retired
Trudy Reed	Stockton	Certified Public Accountant
Elmer Sanguinetti	Lodi	Title Insurance, Retired
Jim White	Stockton	Civil Engineering, Retired



# 2009/10 SAN JOAQUIN COUNTY GRAND JURY



Back row (L. to R.): William Logan - Tony Rantz - Chet Somera (Foreman) - Gene Andral (Vice Foreman) - David Jackson

Middle row (L. to R.): Marvin Primack - Bernie Oeding - Jim White - Lina Longmire - Chris Parker

Front row (L. to R.): Elmer Sanguinetti - Karen Migliori - Teri Henry - Iris Kestler (Secretary) - Trudy Reed - Kathy Hayes - Andy Pinasco

Not in picture: Terry Harris

## **Section II**

Qualifications .....	7
Commitment .....	7
Selection.....	7
Application.....	8
Structure and Function of the Grand Jury.....	8
Complaint Procedure .....	9
Complaint Form .....	10
Responding to Findings and Recommendations.	11
Contact Information .....	12

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# *Grand Jury Process and Organization*

### **Qualifications**

A grand juror must meet all of the following qualifications:

- Be a citizen of the United States
- Be at least 18 years old – be a resident of California and San Joaquin County for at least one year immediately prior to selection
- Possess ordinary intelligence, sound judgment, and good character
- Possess sufficient knowledge of the English language to communicate both orally and in writing

A grand juror cannot:

- Be serving as a trial juror in any California court
- Have been discharged as a grand juror in any California court within one year of the beginning date of service, July 1
- Have been convicted of malfeasance in office, any felony or other high crime
- Be serving as an elected public officer

Other desirable qualities:

- Good health
- Open-mindedness
- Sensitivity to and concern for the views of others
- Skill in working with others in a group setting
- Interest in and knowledge of community affairs
- Skill and experience in fact finding
- Skill and experience in report writing
- Working knowledge of computers
- General knowledge of the responsibilities, functions and authority of county and city governments

### **Commitment**

Nominees selected for grand jury service must commit to serving at least one day each week for the period July 1 through June 30. Also, considerable time each week will be spent for investigative and report-writing assignments.

### **Selection**

Applications will be reviewed and forwarded to the Presiding Judge for consideration and an interview will be scheduled with the judge if you are considered.

Grand Jury members are selected from the judicial districts of the county in proportion to the number of inhabitants in each district. In June, drawings are conducted under the supervision of the Presiding Judge of the Superior Court in the presence of the nominees. The names of 19 people who will compose the grand jury are drawn at random from a

pool of prospective grand jurors. Another ten names are drawn and ranked to form the alternate list. If a juror is unable to serve, a replacement is selected from the alternate list according to rank.

### **Application**

Application forms may be received by writing to:

Trisa Martinez  
Superior Court  
222 E. Weber Avenue  
Room 303  
Stockton, California 95202

Application forms can be downloaded from: **[www.stocktoncourt.org](http://www.stocktoncourt.org)**

Please submit a written application to Ms. Martinez. The deadline for submitting applications is May 1 for the following July 1 through June 30 term.

### **Structure and Function of the Grand Jury**

California Constitution, Article I, Section 23, provides that "One or more grand juries shall be drawn and summoned at least once a year in each county." The law governing Grand Jury formation, authority, powers and proceedings, is found in Part 2, Title 4, of the California Penal Code, Sections 888-939.91

The presiding judge of the Superior Court of San Joaquin County impanels nineteen citizens every year to conduct civil investigations of county and city government; a body of people who are independent of any political or special interest group.

The judge appoints a foreperson to preside over the Grand Jury. The foreperson selects the vice-foreperson and secretary with approval of the Grand Jury and standing committees and/or ad-hoc committees are formed. Each juror may serve on several committees and this is where the investigative work is done throughout the year. A general meeting is held weekly to coordinate activity and conduct business.

This Grand Jury serves in an independent oversight and investigative role for the County of San Joaquin. It serves to investigate allegations of misconduct of public officials and to determine whether to present formal accusations for nonfeasance, misfeasance or malfeasance. It will objectively investigate, audit or examine all aspects of County government, and its cities, to insure that these bodies are being effectively governed and that public monies are being judiciously handled.

The Grand Jury may subpoena persons and documents to obtain information on subjects under investigation. The Grand Jury acts in the public's interest by investigating and reporting on the operation, management and fiscal affairs of local government in the county. It may review and evaluate procedures, methods and systems used by county and city governments to determine whether more efficient and economical programs may be used. The Grand Jury is also mandated to inspect prisons, jails and other detention facilities in the county. The Grand Jury reviews complaints submitted by citizens alleging misconduct by officials or other concerns of government inefficiencies. Complaints are acknowledged and investigated for their validity. Jurors are sworn to strict confidentiality pertaining to complaints, witnesses or content of investigative matters. They may not disclose any information they receive within the confines of the jury or the identity of anyone appearing before them. The Grand Jury is an independent entity and it serves a democracy in which individuals can be involved for civil service on behalf of their community.

### **Complaint Procedure**

Any citizen may submit a written complaint to the Grand Jury and all communications are confidential. A citizen may ask the Grand Jury to conduct an investigation into misconduct or inefficiencies by county governmental agencies.

The Grand Jury can act on complaints relating to a county department, any city within the county, all school districts and special purpose or taxing districts in the county.

The Grand Jury may consider complaints of willful or corrupt misconduct against public officials and policies, county and city employees; including the abolition or creation of offices and the equipment for performing duties of county government.

The Complaint Form should be submitted by citizens after all attempts to correct an issue have been explored, and without success.

Instructions for preparing the Complaint Form:

- Include your name, address and phone number
- Name the agency and/or person(s) you are complaining against
- Explain the nature of your complaint and provide detailed information
- List any other action requested or taken in an attempt to resolve the issue
- Provide contact information of witnesses who can substantiate your complaint

To obtain a complaint form, visit the Grand Jury website at:

**[www.stocktoncourt.org](http://www.stocktoncourt.org)** and download the Complaint Form (PDF format)

SAN JOAQUIN COUNTY CIVIL GRAND JURY  
222 E. Weber Ave., Room 303 Stockton, CA 95202  
Phone: (209) 468-3855

## COMPLAINT FORM

**All communications to the Grand Jury are confidential.**

The Grand Jury is the avenue for county residents to bring attention to what they believe are injustices not resolved by public agencies, after other reasonable efforts have failed.

**What is your name, address and phone number?**

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**What agency and/or person are you complaining against?** *(Name of agency and all individuals, including their addresses and phone numbers)*

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**Please explain the nature of your complaint providing as many details as you can, including dates, times, and places where the events took place.** *(Attach extra sheets if necessary)*

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**Action taken.** Please list other persons and/or agencies you have contacted in an attempt to resolve this complaint and any actions you have taken yourself.

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**Witnesses.** Please provide names and telephone numbers of anyone else who can substantiate your complaint.

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*The information in this form is true, correct and complete to the best of my knowledge.*

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_



### **Responding to Findings and Recommendations**

Provided here are extracts of California Penal Code Section 933 that establish the requirements for responding to Grand Jury reports.

The timetable for responses is found in Section 933(C):

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

Section 933.05 gives explicit instructions for how public agencies (including county departments and agencies, and all public agencies geographically situated within county borders, e.g., cities and their police departments) must respond to a grand jury report:

(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 therefore.

(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 timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 timeframe 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 therefore.

(c) However, 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 decisionmaking 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.

Written responses shall be delivered to:

Hon. Robin Appel  
Presiding Judge of the Superior Court  
County of San Joaquin  
222 East Weber Avenue, Room 303  
Stockton, California 95202

#### **Contact Information**

The San Joaquin County Grand Jury can be reached:

Via the Internet at:

**[www.stocktoncourt.org](http://www.stocktoncourt.org)**

Via Email at:

**[grandjury@courts.san-joaquin.ca.us](mailto:grandjury@courts.san-joaquin.ca.us)**

By visiting or writing:

San Joaquin County Civil Grand Jury  
222 E. Weber Ave. Room 605  
Stockton, CA 95202

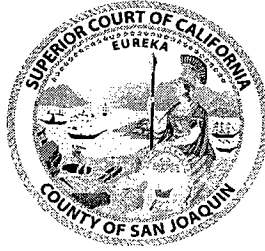
### **Section III**

Mary Graham Children's Shelter (Case No. 0109) .....	14
Farmington Rural Fire Protection District (Case No. 0209) .....	18
Vote by Mail (Case No. 0309).....	22
Best Interest of the Child (Case No. 0409).....	26
Housing Authority of the County of San Joaquin (Case No. 0509) .....	29
Information Services (Case No. 0609) .....	38
Use Permit for Morada Mosque (Case No. 0709) .....	42
North San Joaquin Water Conservation District (Case No. 0809) .....	45
Public Appointment Process (Case No. 1009) .....	51
City of Stockton Audits (Case No. 1209).....	55
First 5 of San Joaquin (Case No. 1309).....	59
San Joaquin Delta Community College Brown Act Violations (Case No. 1409) .....	61
San Joaquin Delta College Student Discipline Procedure (Case No. 1509) .....	66

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# *Investigations*

## **San Joaquin County Grand Jury**



### **MARY GRAHAM CHILDREN'S SHELTER**

2009/10 San Joaquin County Grand Jury Case No. 0109

#### **SUMMARY**

The 2009/10 San Joaquin County Grand Jury investigated a complaint against the Mary Graham Children's Shelter alleging misconduct and negligence by the Shelter's Director and Assistant Director. As a result of this investigation, the complaints received were unfounded; however areas for improvement were identified.

#### **GLOSSARY**

County of San Joaquin, Human Services Agency (**HSA**)

Mary Graham Children's Foundation (**MGCF**)

Mary Graham Children's Shelter (**Shelter**)

#### **BACKGROUND**

Shelter is San Joaquin County's solution to the State mandate that the counties of California provide a safe haven for those children who fall within the parameters and definition of the Welfare and Institutions Code section 300. Shelter is regulated by the California Community Care Licensing and Juvenile Justice and Delinquency Prevention Commission.

The Shelter is a division of the HSA under the San Joaquin County Board of Supervisors and the juvenile/dependency courts. The Shelter is a 24-hour emergency short-term residential care facility for children in need of protective services, due to abandonment, physical or sexual abuse, neglect or exploitation, and for whom there is no appropriate relative available to care for the child.

Basic funding for the Shelter is provided by the county Board of Supervisors from the local tax base. This tax base accounts for less than 50% of the Shelter's annual budget. A trust fund also exists for the purpose of receiving monetary donations from the public and other organizations. Non-cash contributions are also received from the community and other organizations. MGCF provides active fundraising for the Shelter.

## **APPROACH**

The Grand Jury conducted a site visit, reviewed relevant materials and interviewed Shelter personnel. The site visit included touring the facility located in French Camp, CA.

## **DISCUSSION**

The Grand Jury acknowledges the public sentiment surrounding the proper care of the children that the Shelter serves. Our community benefits from the presence of the Shelter due to the fragile nature of its clientele's circumstances. While benefits are realized from the Shelter's offerings, complaints still surface from the community. The Grand Jury received various complaints regarding the Shelter. While the Shelter is beneficial, its operation must be fiscally responsible.

The Grand Jury received detailed complaints about the management of the Shelter. The complaints alleged:

- There are serious communication problems at the Shelter resulting in low staff morale.
- The forceful management style of the Assistant Director hampers team building and is not conducive to good staff morale.
- Some long time staff members are discontented and resistant to change.
- The Director of the Shelter is often unavailable to staff.
- The HSA Director is aware of the issues at the Shelter and has been unsuccessful in resolving the problems.
- The Shelter Manual and the Employee Handbook have not been updated for years.
- When the number of children living at the Shelter decreases, management fails to reduce staff, rather they have increased full time staffing over the last four (4) years.

## **FINDINGS**

- F1. The management team at the Shelter recognizes that there is a constant challenge in clear and constant communications with the staff of a 24-hour facility, but have implemented means to correct the dilemma. Communications are achieved daily through e-mail, weekly team meetings, the establishment of daily strategy meetings prior to the start of each shift and Nextel 2-way radio/phones.
- F2. Morale is low among staff members and appears to be exceptionally low on the PM shift and the graveyard shift. Staff on graveyard shifts have additional duties of housekeeping due to budget cuts and reduction in personnel. Shelter Management has tried many approaches to raise morale including special staff lunches, dinners and other recognition. The Leadership Committee consisting of Shelter supervisors was established to help raise the overall morale of the staff. However, staff appears content and the Shelter has many long term employees.
- F3. The Director and Assistant Director are available to staff on a 24/7 basis and in their absence, by phone. Although the Director and Assistant Director are not present on every shift, their hours and shifts do rotate in an attempt to cover as many shifts and work with as many staff members as possible.
- F4. The Director of HSA is aware of the communication deficiencies and morale at the Shelter, but relies on his Director and Assistant Director to correct matters related to their control.
- F5. The Shelter Manual and Employee Handbook were revised in September of 2008 and are living documents which receive constant updates and changes.
- F6. The complaint of increasing full time staff during low census in the Shelter was unfounded. San Joaquin County has imposed a hiring freeze for the past two years. When the number of children residing in the Shelter is down, part time employees' hours are cut to reduce salary costs.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

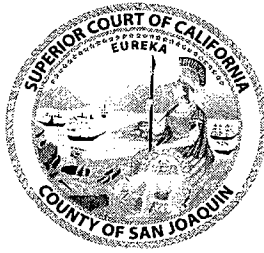
- R1. The Director and Assistant Director as well as the HSA Director develop a budget and a plan for awards and recognition of the staff to help build morale and leadership.
- R2. The Director, Assistant Director, and the HSA Director continue to search for outside County support to assist in the funding of the Shelter to preserve quality

staffing levels. The independent MGCF could be instrumental in this effort to build public awareness and support.

### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Board of Supervisors within 90 days of publication of this report.

## San Joaquin County Grand Jury



### FARMINGTON RURAL FIRE PROTECTION DISTRICT

2009/10 San Joaquin County Grand Jury Case No. 0209

#### SUMMARY

The 2009/2010 Civil Grand Jury investigated allegations against the Farmington Rural Fire District regarding conflict of interest, misuse of public property and funds. There were also allegations that the District Board routinely withheld information from the citizenry in violation of the Brown Act and the Public Records Act.

#### GLOSSARY

**Farmington Rural Fire Protection District (District):** the entity organized to provide fire prevention and fire protection within its boundaries

**Farmington Rural Fire Protection District Board of Directors (Board):** the governing body of the District with the authority to hire personnel, approve the budget and set policy

**Farmington Rural Volunteer Fire Department, Inc. (Corporation):** the not-for-profit corporation that supports District activities by providing the organization to fight fires and respond to other emergencies. The Corporation conducts fundraisers for the purpose of securing specialty fire fighting equipment and supporting community activities

**Farmington Volunteer Fire Department (Fire Department):** the operational unit of the District providing fire protection services

**Apparatus:** Rolling stock (*e.g.* fire engines, water tenders, rescue squad)



## **BACKGROUND**

**The District:** The District is formed under the Fire Protection District Law of 1987. It is an independent District and is not subordinate to the County Board of Supervisors. Voters in the District elect the Board members. Elections are managed by the County Registrar of Voters. The Board has jurisdiction over the Fire Department.

The District operates a Fire Station located in Farmington that is supported by 15 volunteers and seven pieces of fire apparatus.

**The Fire Department:** The Fire Chief manages the Fire Department and serves at the pleasure of the Board. The Fire Department protects an area of approximately 100 square miles. Property taxes are the main source of operational funds of approximately \$225,000 annually. The Board manages all operating funds. The District has been successful in garnering a number of grants for the purchase of apparatus and support equipment. The Corporation has various fund-raisers for the purpose of securing specialty fire equipment and providing funds for volunteer functions.

## **APPROACH**

- The Grand Jury conducted site visits, reviewed relevant material and interviewed key personnel.
- Site visits included touring the Fire Station and observing a District Board meeting.
- The Grand Jury reviewed the following materials:
  - District Board meeting minutes for 2007-2009, Bylaws and Operating Procedures
  - Grants, Payroll Records (2008), Training Records (2008-2009) and Equipment Maintenance Records (2008-2009)
  - "Evaluation of The Farmington Rural Volunteer Fire Department" prepared by Emergency Services Consulting, Inc. Elk Grove, CA (2007)
  - "Record Review 1960 – Present" of the District by William H. Smith, Chief Financial Officer French Camp Fire District, *et al.* (2008)
  - Farmington Fire Department Employee Handbook adopted 9/28/2009

## **DISCUSSION**

The 2009/2010 Civil Grand Jury received complaints against the Farmington Fire Chief and the Farmington Volunteer Battalion Chief, who is also the current President of the Board, alleging conflicts of interest and misuse of public funds. Another complaint

alleges that the Board routinely withheld information from the citizenry and acted outside the confines of the Brown Act. According to one complaint, family ties dominate the command structure of the Board and the Fire Department, implying conflicts of interest.

Complaints identified three conditions or incidents that were described as being inappropriate, and possibly illegal. In one case, a charge account was opened with a business-to-business catalog company using the name of the District as the buyer. Items purchased were of a personal nature; the individual paid for the items and the account was closed. A second incident involved giving a neighbor a small quantity of gasoline from Fire department storage (less than five gallons). At that time, no gas station existed in Farmington.

Another complaint alleged the Fire Chief allowed a person to live in the fire station for an extended period of time without authorization of the Board, in violation of a Board adopted Standard Operating Procedure (SOP).

The person referred to is the Assistant Fire Chief. He has been a volunteer in the Fire Department since 1976. He has been Assistant Fire Chief since the early 1980's. His duties while living in the fire station are to perform bi-weekly apparatus checks, equipment maintenance and general housekeeping duties. In addition, he is a first responder and engineer on approximately 80% of all emergency calls.

When the existing fire station was built in 1970, fire protection sprinkler systems were not required. The station is left unattended for long periods of time. This exposes the station to possible vandalism, burglary, fire or unauthorized entry. The value of the station, including the building, apparatus and support equipment is approximately two million dollars. Losses are partially covered by insurance; however, the loss of service to the community is immeasurable.

The Board created the position of Secretary to the Board to perform its functions. It is a part time position (20 hours per week). Because of the recent resignation of the Secretary, the Chief, in agreement with the Board, has temporarily assumed the responsibilities of the Secretary.

The Grand Jury found that the individuals presently involved in the operation of the Board and Fire Department are well trained, competent to perform their duties and loyal to the organization. The Grand Jury recognizes the effort that the current Board has taken to correct the problems resulting from a long period of inattention. However, the Grand Jury has identified issues regarding management procedures.

## **FINDINGS**

- F1. There is a maternal relationship between the Chief and the Battalion Chief, who is also the president of the Board. The Grand Jury did not find evidence of conflict of interest or nepotism; however, the perception of such conflict of interest or nepotism could be construed from the facts.

- F2. An individual has resided at the Fire Station since 2005.
- F3. The Fire Chief is temporarily assigned to the position of Secretary to the Board.
- F4. The fire station is unattended for long periods of time exposing the facility to vandalism, burglary, fire, or unauthorized entry.

## **RECOMMENDATIONS**

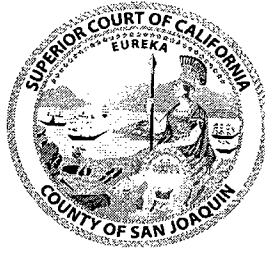
The Grand Jury recommends that:

- R1. The Board conduct an annual compliance review of the District's employee handbook to ensure it continues to conform with the County's conflict of interest regulations.
- R2. The Board prepare and promulgate a tenant agreement between any individual residing at the Fire Station which comes under review annually by the Board at a public meeting.
- R3. The Board fill the position of Secretary to the Board.
  - a. The Board should provide separate and secure office space in the fire station for the Secretary to the Board.
  - b. The Secretary to the Board shall report only to the Board.
  - c. To avoid conflicts of interest, real or perceived, the positions of Secretary to the Board and Fire Chief should not be held by the same individual.
- R4. The Board contract with an alarm monitoring company for the purpose of protecting against unauthorized entry, burglary and fire.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the Farmington Rural Fire Protection District Board of Directors within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **VOTE BY MAIL**

2009/10 San Joaquin County Grand Jury Case No. 0309

#### **SUMMARY**

The Grand Jury reviewed vote by mail applications across the nation. Exclusive vote by mail elections are conducted in Oregon and mostly throughout Arizona and Washington. If the State would give permission to the County to implement exclusive vote by mail, it would save \$500,000 per election. Additionally, \$500,000 will be saved by eliminating special voting equipment for special needs voters.

#### **GLOSSARY**

**Vote by Mail (VBM)** is a process that allows voters to receive ballots at home, make their selections and return ballots to the registrar of voters.

#### **BACKGROUND**

In November 2008, 48% of the ballots cast in San Joaquin County chose VBM as opposed to going to the polls. Statewide, 41.6% of voters chose VBM. Two of the least populated counties in the state, Alpine and Sierra, voted exclusively by mail.

The costs for statewide and national elections are borne by the counties. Cities, school districts and special districts pay their respective share for their ballot measures.

The cost to San Joaquin County for the November 2008 election was approximately \$1.5 million. If San Joaquin County had used VBM exclusively in the November 2008 election, San Joaquin County Registrar of Voters estimates savings of at least \$500,000.

In March 2009, the Sacramento County Board of Supervisors supported VBM for Sacramento County and directed staff to seek legislation that would permit the County to

institute the VBM process. At the time of this report, the legislative effort has not been reported.

### **Special Needs Voters**

During the November 2008 election, San Joaquin County provided automated voting machines to accommodate special needs voters in each of the 513 precincts. The San Joaquin County Registrar of Voters reported the automated voting machines:

- Cost approximately \$500,000 to program
- Accommodated less than 200 voters at a cost of \$2,500 per voter

### **APPROACH**

The Jury interviewed staff of the San Joaquin County Office of Registrar of Voters and all members of the San Joaquin Board of Supervisors. Also interviewed were University of Pacific political science faculty, who have conducted a grant funded study focusing on VBM. Various research documents pertaining to VBM were reviewed.

### **DISCUSSION**

VBM is exclusively conducted statewide in Oregon and has been since 1998. The state of Washington exclusively implemented VBM in 2005, with the exception of Pierce County, which uses VBM and traditional polling. Since 2006, Arizona exclusively utilizes VBM with the exception of Maricopa County.

### **Advantages of VBM**

#### **Reduced costs to the County:**

- Reduced expenses as poll workers will not be needed
- No equipment repair needed for malfunctioning voting equipment

#### **VBM benefits for the voter includes:**

- Vote at your convenience
- No need to make arrangements for childcare or time off from work
- Do not need transportation, thus air pollution may be reduced by eliminating travel to precincts
- No waiting in long precinct lines

- The utilization of the United States Postal Service makes large scale fraud less likely
- VBM voters made fewer errors than polling place voters. VBM errors of ballots cast were about 1% while voters at polling places were about 3%

#### **Disadvantages of VBM:**

- Forget to mail ballot
- Cast ballot before campaign is complete
- Lose or destroy the mail-in ballot
- Prefer voting in person
- Have concerns about confidentiality and privacy

#### **Special Needs Voter**

Each precinct in the County is required by law to provide accessible convenient processes for special needs voters who choose to vote at the precincts. However, alternative processes need to be implemented to reduce the \$500,000 per election costs to accommodate automated special needs voting at the precincts. Fewer than 200 special needs voters participated in the November 2008 election. The County provided 513 special needs voting machines. In the absence of the voting machine, the dignity and privacy of special needs voters can be protected and cost containment can be achieved.

#### **FINDINGS**

- F1. California law does not permit all counties discretion to conduct elections exclusively by mail. If the Legislature gave the County authority for VBM, then San Joaquin County could save an estimated \$500,000 for each general election and lesser amounts for special elections. In these stringent economic times, VBM provides an opportunity to reduce cost.
- F2. California law requires that each county provide appropriate voting processes for special need voters. The County has discretionary authority to implement alternative voting methods for special need voters. Alternative voting methods that comply with the law could save an additional \$500,000 for each general election and lesser amounts for special elections.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

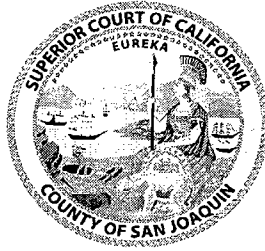
- R1. The San Joaquin County Board of Supervisors pursue enabling legislation that will allow the County the option of conducting future elections exclusively by mail.
- R2. The San Joaquin County Board of Supervisors reduce the number of precincts with voting machines provided for special needs voters throughout the county. Five sites could provide adequate access. Public transportation is available to special needs voters.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Board of Supervisors within 90 days of publication of this report.



## **San Joaquin County Grand Jury**



### **BEST INTEREST OF THE CHILD**

2009/10 San Joaquin County Grand Jury Case No. 0409

#### **SUMMARY**

The Grand Jury received complaints regarding San Joaquin County Children Services, hereinafter referred to as Child Protective Services (CPS). Social worker (SW) misconduct was an issue in each complaint. The quantity of reported instances is troubling. The Grand Jury discovered parents were not aware of informal processes available for reporting SW misconduct. The Grand Jury recommends CPS create and distribute written information outlining how parents can report SW misconduct.

#### **GLOSSARY**

**County Welfare Directors Association of California (CWDA)** is a professional organization that advocates legislative change to benefit, in part, child protective services.

**CPS** is a division of the San Joaquin County Human Services Agency. Its focus is to preserve the family unit whenever possible, but its top priority is insuring the safety of our children.

**SW** in CPS is responsible for conducting child welfare investigations.

#### **BACKGROUND**

Through complaints and news stories, the Grand Jury became aware of instances where CPS personnel allegedly acted contrary to the best interest of the child and against parental rights. Recognizing CPS investigations can be emotionally charged and permanently affect the lives of families involved, the Grand Jury chose to examine SW demeanor during CPS investigations.

## **APPROACH**

The Grand Jury interviewed complainants, CPS employees and court personnel. The Grand Jury also reviewed the following materials:

- CPS Intake and Assessment Manual, 2008
- Structured Decision Making Policy and Procedures Manual, 2006 and 2009 editions
- CPS investigation result statistics
- CWDA web site
- Police reports
- Medical records
- News articles
- Complainant's journal

## **DISCUSSION**

Each of the cases investigated contained allegations that SWs acted inappropriately while conducting investigations. Due to client confidentiality concerns, specific case details will not be discussed in this report.

During interviews, CPS personnel indicated the statements and actions presented in the cases would not be appropriate. They also stated complaints regarding alleged SW misconduct could be reported to SW supervisors, division chiefs, Deputy Director, and even the Director if satisfactory responses are not received. However, CPS could not produce a written policy and procedure describing the process for complaints against CPS personnel. Furthermore, individuals presenting complaints to the Grand Jury were not aware that such a process was available to them.

Separate legal counsel represents each individual involved in a CPS case. This is not designed to be an adversarial process; the goal is the best interest of the child. However, parties may not agree on how to achieve this objective. When disagreements occur, the Court makes the final determination.

## **FINDINGS**

- F1. CPS failed to provide a policy and procedure describing the process for citizen complaints against CPS personnel.
- F2. Parents do not know how to report SW misconduct.

## **RECOMMENDATIONS**

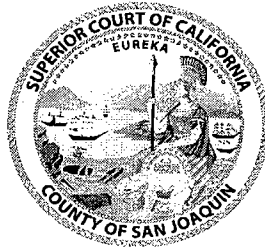
The Grand Jury recommends that:

- R1. CPS create a policy and procedure for dealing with citizen complaints against CPS personnel.
- R2. CPS draft, make available for distribution in print and on the web site, information advising the public how to report SW misconduct.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Board of Supervisors within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN**

2009/10 San Joaquin County Grand Jury Case No. 0509

#### **SUMMARY**

The Housing Authority of the County of San Joaquin has been investigated numerous times by former Grand Juries, often regarding the same complaints, without adequate resolution. The current Grand Jury determined a comprehensive follow-up investigation was warranted to determine if the unresolved issues had been addressed.

The 2009/10 Grand Jury received complaints from employee(s) of the Housing Authority. The complaints involved Personnel, Computer and Information Technology and Administrative Issues.

The Grand Jury would like to commend the new Executive Director on the many policy improvements and staff changes which resolved most of the issues appropriately prior to the issuance of this report.

#### **GLOSSARY**

Housing Authority of the County of San Joaquin (HA)

San Joaquin County Board of Supervisors (Board)

Board of Commissioners (Commissioners)

U.S. Inspector General's Office (OIG)

Housing Authority Ethics Review Committee (ERC)

Executive Director (ED)

Computer and Information Technology Department (IT)

U.S. Housing and Urban Development (HUD)

Housing Authority Human Resources Department (HR)

## **COMPLAINTS**

### **Personnel Issues:**

- Promotions given on a preferential basis
- Harassment and intimidation
- Inappropriate relationship between management employees
- Improper conduct by a Commissioner

### **Computer and Information Technology Issues:**

- Telephone system problems
- Computer software that was never properly implemented
- Computer hardware inadequacies

### **Administrative Issues:**

- Inadequate security of tenant files
- File room security
- Non-functional Ethics Committee
- Unqualified IT Director

## **BACKGROUND**

The HA has an important and worthy purpose in our county, to assist in providing, maintaining and in some cases, subsidizing community housing. The HA is required to comply with constantly changing HUD regulations to secure funding for support, maintenance and acquisition of housing units. A variety of housing is available under various programs from single family homes, apartment buildings, migrant labor camps and Section 8 housing throughout the county. Approximately 1075 housing units are managed by the HA and 4,857 housing choice vouchers are distributed. A multitude of services are provided to run such an extensive and varied enterprise. Services include a full-time maintenance department, on-site managers, clerical personnel, specialized administrative and accounting personnel familiar with HUD, State, County and City regulations. A specialized computer system is operated to meet HUD reporting

requirements. A cohesive working team of all department managers and the ED bring these areas together.

The HA has been investigated by the Grand Jury for several years without adequate resolution. There have been continual problems with the IT Department, lack of a permanent ED, low employee morale, lack of communication with upper management and inability to resolve or mitigate staff complaints and concerns. The staff appeared unaware of a problem resolution protocol.

In early 2009, the Commissioners, after an extensive selection process, employed a new ED. The new ED has many years of experience in public housing, specializing in turning around troubled HA's in California. The ED has made great strides identifying problems and making substantive changes for many of the HA troubled areas. Both the ED and the Grand Jury are confident that the HA is well on the way to resolving the problems that have caused its reputation to suffer.

### **Computer Software**

A computer software program (Great Plains), purchased in 2001, was represented by the vendor as suitable for HUD. The software was not completely installed nor did it work properly. This issue was previously investigated without resolution. The computer hardware and servers used at that time were not adequate to run this program. It was also found that the software was not in compliance with HUD reporting requirements. The software was installed in modules. When it was discovered it would not work properly, the unused modules were returned.

### **Ethics Review Committee**

The HA Code of Ethics and Standards of Conduct Section 7.0 requires the formation of an Ethics Review Committee empowered "to review and render decisions on any matters involving ethical conduct or breach of ethical conduct by employees, vendors or commissioners."

An incident occurred between several HA employees and a Commissioner. Written statements were made to an HA supervisor claiming inappropriate behavior by a Commissioner. This report was forwarded to HA Executive Staff and assigned to HA legal counsel for handling. Legal counsel investigated the incident and brought his findings to the Commissioners in closed session. The Commissioner involved was excused from this session. The Commissioners instructed HA legal counsel to draft a Letter of Counseling to the Commissioner. The letter was discussed with the Commissioner and a copy placed in the Commissioner's file.

No referral of this incident with the Commissioner was made to the ERC, as required by the Code of Ethics, Section 6.0(B)(2).

The Grand Jury interviewed individuals who were listed as members of the ERC. The Grand Jury found confusion regarding term length and committee membership. There was no indication of any ERC meetings.

### **Computerization of Records**

The administration initiated the computerization of all HA records and files as a benefit of the new computer software. Most HUD and HA forms are currently available on the HA website. Older records, forms and tenant files are being scanned into the computer as time permits. Some of these older records can go back over 20 years for some long term tenants. This will take a significant amount of time to complete.

### **APPROACH**

The Grand Jury interviewed current and former HA employees, some Commissioners, the Board and members of the ERC.

The Grand Jury reviewed financial audits performed by an outside CPA and the HUD compliance audit by OIG. In addition, many other files and documents were reviewed.

### **Materials Reviewed**

- Redacted resident files
- OIG audit reports from 2005-2008
- HA financial reports from 2005-2009
- HA organization charts
- HA Personnel Policy
- San Joaquin Housing Authority Management Association Agreement, December 2007 through September 30, 2008
- San Joaquin Housing Authority Management Association Agreement, October 1, 2008 through September 30, 2012
- HA Code of Ethics and Standards of Conduct (Governs both employees and the Commissioners)
- Commissioners meeting minutes, agendas and associated reports
- Specifically requested documents
- Written statements regarding incident between HA employees and a Commissioner



- Letter from HA Legal Counsel
- HA Website, <http://www.hacsj.com>
- [www.NAHRO.org](http://www.NAHRO.org)

#### **Additional Investigative Procedures:**

- The Grand Jury toured the HA administrative facilities, Conway and Sierra Vista Housing Projects, including maintenance shops, storage areas and unoccupied housing units.
- The Grand Jury attended Board of Commissioners meetings.

### **DISCUSSION**

The Grand Jury found the following accomplishments:

#### **Technology**

Implementation of new computer hardware, servers and software that is compatible with HUD requirements which eliminated the problem of lost data.

Purchase and installation of a new phone system with additional data lines reduced down time on the system and increased efficiency.

Hiring of a new permanent IT Director brings continuity and expertise.

#### **Awards**

The HA secured \$2.8 million in federal stimulus funds enabling the HA to upgrade public housing sites and acquire 20 new homes.

In 2009, the HA received HUD's highest award designation available for The Housing Choice Voucher Program.

#### **Staff and Morale**

Employee morale improved after signing a four year contract with both unions.

Forming the Safety, Morale and Retention Team improved workplace morale and retention.

Staff training opportunities increased, resulting in industry-wide certifications, improved career development, customer service and leadership skills.

The Executive Team expanded to include Site Managers. This Team meets with all managers, supervisors, coordinators and legal counsel on a quarterly basis to improve internal communication.

### **Prior Grand Jury Investigations**

2003/04 Grand Jury found:

- Employees inappropriately used HA credit cards.

**A new credit card use policy was implemented.**

2008/09 Grand Jury recommended:

- Implement an application and interview process for Commissioner appointment

**Upon request of the Commissioners, the ED reported on the appointment process used by other California HA's.**

- Adopt by-laws addressing commissioner training, with the ED and HA legal counsel guiding and monitoring the training.

**There is no law requiring Commissioner training, with the exception of the Brown Act. Regular Commissioner training is now being offered via the internet and off-site training.**

- ED to provide audit reports to the Commissioners.

**This is now being done on a regular basis.**

- Commissioners to seek legal counsel's advice prior to approving contracts.

**This is now being done on a regular basis.**

- ED to submit monthly Activity Summary reports (police activity log) to the Board.

**Activity Summaries are included in the Commissioner's agenda packets and given to the Board.**

### **FINDINGS**

- F1. After several interviews and review of policies, promotions were given based on the interview and work record of the employees as per policy.
- F2. No specific evidence of harassment or intimidation was found. Some interactions between individual employees could be misinterpreted due to

personality differences. Interviews of both current and former employees indicate these feelings seem to have been based on prior management, labor issues and personality conflicts.

- F3. Written complaints and interviews of HA employees revealed probable violations of the HA's "Code of Ethics and Standards of Conduct Policy". This Policy pertains to both employees and members of the Commissioners.

An incident was documented involving some employees and a Commissioner. The Commissioner received a Letter of Counseling regarding this behavior from HA legal counsel as directed by the Commissioners. A copy of this letter is in the Commissioner's file.

- F4. A new modular software system (YARDI) is being purchased and implemented. The YARDI system is used by other HA's and is compatible with the required HUD reporting formats. In order to successfully install this new software, required new servers were purchased. Several modules of the new software are efficiently operating with the new servers.

- F5. The file rooms at sites inspected were locked. Access to the keys to these rooms and cabinets is limited to authorized personnel. A sign-out sheet is attached to each Tenant file and requires a signature and date. Occasionally tenant files are unattended.

The Administration offices have fireproof file cabinets in their building for long term record retention. Conway and Sierra Vista do not have fireproof file cabinets.

- F6. During the Grand Jury investigation an ERC committee was re-established.
- F7. There was an inappropriate relationship between two management employees. They were counseled by the HR director and the ED.

- F8. A new phone system was fully integrated into the upgraded computer system. This has solved the problems inherent in the old system. The Commissioners decided in 2005 not to pursue recovery for the Great Plains software due to the high legal costs. It should be noted that numerous other HUD and HA agencies across the nation were similarly affected.

- F9. It is apparent to this Grand Jury that there has been a resolution of the past software purchase issue. No malfeasance was discovered. The Commissioners were made aware of the situation and chose not to pursue recovery of funds already dispersed due to high legal costs involved.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. Staff follow procedures outlined in the Personnel Policy section of the Policy and Procedures Manual.
- R2. Management continue to monitor and improve workplace conditions and attitudes to increase morale and decrease negative interactions. Implement the use of “High Performance Management Training” as provided by National Association of Redevelopment Officials(NAHRO). This training will benefit executive staff and any other individuals connected with the HA who interact with staff.
- R3. The Commissioners continue to receive training on all aspects of their responsibilities and limits on their authority.
- R4. The HA continue to add necessary software modules as budget allows.
- R5. Tenant files remain secure at all times.
- R6a. Commissioners appoint members to the ERC and provide information on responsibilities, and the HA Code of Ethics and Standards of Conduct (Ethics).
- R6b. Commissioners revise the Ethics to include a complaint form and a clear procedure for referring a complaint to the ERC.
- R6c. All HA staff be provided training on the revised Ethics.
- R6d. Commissioners appoint one of their own to monitor the terms of the ERC members and report upcoming term expirations.

### **Commendations and Improvements**

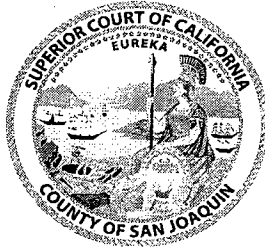
- Most issues raised by various individuals were handled appropriately and/or corrected prior to the issuance of this report.
- The Commissioners are commended for their selection of the new ED.
- The new ED is commended for implementing many policy improvements and staff changes.
- The HA was awarded \$116,000 in Family Self Sufficiency Grants.
- Hiring of a new IT manager.
- Implemented YARDI software program.

- Scanning and computerizing of all HA records.
- Installation of high-speed data lines.
- Installation of a new telephone system.
- A client scholarship foundation was established and awarded over \$10,000 in scholarships.
- The ED has further created new employee/staff partnerships to improve communications and morale.

### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the Housing Authority of the County of San Joaquin Board of Commissioners within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **INFORMATION SERVICES**

2009/10 San Joaquin County Grand Jury Case No. 0609

#### **SUMMARY**

As the internet becomes more prevalent in the daily lives of San Joaquin County citizens, the importance of information accessibility and efficiency of document distribution on City websites is a topic of importance. Each city in our County maintains a website offering a multitude of information and documents.

#### **GLOSSARY**

Crowdsourcing - the act of outsourcing tasks, traditionally performed by an employee or contractor to a large group of people or community (a crowd)

#### **BACKGROUND**

For many years, citizens needing governmental information or forms went to city offices to wait in line. With the advent of the World Wide Web, this is not always necessary.

A city government's website is an extension of city hall and it is the digital presence that a city maintains on the World Wide Web. City government websites are a public entity primarily funded by taxpayers. Therefore, proper implementation and management of the site is an obligation of the city. By creating and continuing to evolve policy, management and fiscal responsibility of the city website, city officials will ensure that helpful information and relevant documents will be available to residents and businesses in an efficient manner.

#### **APPROACH**

An investigation was conducted by requesting and reviewing relevant documentation from each city in our County (Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, Tracy).

Requested documents were analytical software reports, website policy and budget documents.

Listed below are the websites each city maintains:

**Escalon:**      <http://cityofescalon.org/>  
**Lathrop:**     <http://www.ci.lathrop.ca.us/>  
**Lodi:**         <http://www.lodi.gov/>  
**Manteca:**    <http://www.ci.manteca.ca.us/>  
**Ripon:**       <http://cityofripon.org/>  
**Stockton:**   <http://www.stocktongov.com>  
**Tracy:**        <http://www.ci.tracy.ca.us/>

## **DISCUSSION**

Each city in our County maintains a website harboring documents and information relating to essential economic concerns, such as building permits and business licenses. In these lean times, the availability of relevant information can help facilitate a more efficient transaction between government and the residents and businesses it serves. In order to provide information in an intelligent and efficient manner, processes and policy must be in place in order to quantify the successes and failures of the website. Without measure, we stand to waste valuable funds in a futile effort to wrangle the massive amount of information that cities accumulate.

City government presence on the internet is encouraged, but implementation must be fiscally responsible. A website can easily become the source of rampant spending due to its technical nature and the speed of technology exceeding the pace of budget. In order to minimize unexpected outlays of funding, there must be limits in which to operate. Maintaining a budget in website operation encourages conservative solutions to information dissemination.

With the capabilities of the internet compounding at such a rapid rate, the collection of data and management of the online presence has become an important task. Analytical software facilitates the collection of data regarding measurable aspects of website traffic. This software provides reports to the site manager that include number of page views, documents accessed, geographic area that visitor originated from, and time spent on pages accessed. These reports will inform the webmaster what is functioning well and what is not fulfilling a need.

In order to operate an effective website, the information that is provided by the analytical software must be visited on a regular basis. Without the proactive use of analytical software, successes and failures are difficult to quantify.

Anonymity of the internet is a concern. Policies that govern the insertion of links to external web content are necessary. Without governance of links to external content, the appearance of conflict may arise. The city government website is a tool for its citizens to access governmental documents. Any affiliation through links present on the city government website with private interest or non-city sponsored information must adhere to a strict policy to avoid such conflicts.

Ensuring the effectiveness of a website is limited to the value present in the information that is offered. The complex nature of city government lends a degree of difficulty to providing information in an efficient and relevant manner.

Each department possesses unique perspective regarding information that is frequently desired by the public. It is this unique perspective that will provide the insight to what the public's concern is regarding each department. Therefore, to harness the power this insight holds, a review is necessary by each department, pertaining to their respective website content.

"Crowdsourcing" the relevant information based on the unique perspective of each department represented on the website distributes responsibility. "Crowdsourcing" forces relevant information to the forefront and allows the person or committee that maintains the website a more precise data set with less time and effort.

The technology available highlights unrealized efficiency. Proper information dissemination will empower the citizens and businesses with relevant information in an effort to create a brighter economic climate and vibrant city perception.

## **FINDINGS**

- F1. Not all cities in our County are not utilizing analytical software.
- F2. Website content and external link policy were not present in all cities.
- F3. Not all cities maintain a budget line item for their city website.
- F4. A cohesive process to review the website content pertaining to individual departments was not present in all cities.

## **RECOMMENDATIONS**

- R1. Cities implement analytical software for their websites and monitor the reports generated.

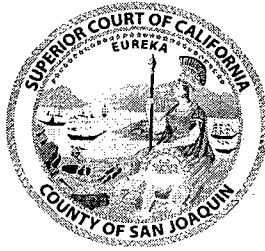


- R2. Cities draft and institute a policy to govern the city website's external content. This policy must be revisited annually to make changes due to market conditions.
- R3. Cities implement a specific line item in the annual budget proposal that addresses maintenance, upkeep and future upgrades of city website.
- R4. Cities implement an annual review of each department represented on the city website that includes a departmental evaluation of their documents and the relevance to the users of the city government website.

### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the City Council of each City in San Joaquin County (Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, Tracy) within 90 days of publication of this report.

## San Joaquin County Grand Jury



### USE PERMIT FOR MORADA MOSQUE

2009/10 San Joaquin County Grand Jury Case No. 0709

#### SUMMARY

The San Joaquin County Civil Grand Jury reviewed a copy of the July 2008 Morada Monitor, a newsletter of the Morada Area Association. It alleges certain complaints in the issuance of a building use permit for a Muslim Mosque in the area. The article alleges failure to comply with environmental review requirements and public hearing notification by the County Community Development Department.

It is this grand jury's conclusion that the complaint is without merit.

#### GLOSSARY

**California Environmental Quality Act (CEQA)** imposes a process on local government to review the impacts of commercial and residential development projects.

**San Joaquin County Development Title (SJCDT)** (2004) details the definition of and responsibilities of the County Planning Commission and County Planning Director. It establishes land use zones for various types of building projects, delineates the staff review process and public hearing procedure.

**San Joaquin County Community Development Department (CDD)** is the county department charged with the responsibility to administer the SJCDT and process applications for building use permits.

**Morada Area Association (MAA)** is an organization that represents the Morada community. It is not a governmental entity like a municipal advisory council or county service area.

**Morada Municipal Advisory Council (MMAC)** is an advisory board appointed by the

Board of Supervisors to advise them on planning matters that relate to the Morada area.

## **BACKGROUND**

An application was submitted to CDD in 2008 to construct a 14,000 square foot religious facility that would serve a maximum capacity of 282 people on a vacant 2.01 acre site. Access to the property is provided from the Highway 99 – East Frontage Road between Hammer Lane and Morada Lane over crossings. The application was reviewed for zoning compliance and CEQA environmental impacts. A staff report was prepared for consideration of the Planning Commission and distributed to numerous governmental entities including the MMAC.

The staff report discussed neighborhood opposition, noise, West Nile virus, traffic, church operations, land use, trees and the East Bay Municipal Utility District right-of-way. With regard to the environmental classification, staff recommended a negative declaration that the project would not have a “significant effect on the environment.” The public hearing before the Planning Commission was noticed in the Stockton Record and mailed to 37 individuals/organizations.

Conditions imposed on the use permit were numerous and related to night lighting, parking, traffic access and circulation, screening, tree preservation, noise, and the Fire Code. The Commission approved the permit subject to the recommended conditions.

The decision of the Planning Commission was appealed to the Board of Supervisors at the April 14, 2009 meeting. After consideration of the staff report and public testimony, the Board rejected the appeal and approved the project as recommended by the Commission.

## **APPROACH**

The jury interviewed CDD personnel and requested copies of the initial staff report, the environmental determination report, the SJCDT and the Board of Supervisors staff report. No other individuals were interviewed. The jury also read the Morada Monitor (Volume 3 Number 4 of July 2008) issue that exposed the complaint.

## **DISCUSSION**

An appeal of the Planning Commission’s approval regarding the building use permit was filed by the MAA. The matter went to the Board of Supervisors on April 14, 2009. The appeal was based on the opinion that the project would induce growth and lacked adequate septic capacity. Other issues such as parking, lighting, traffic, water, septic, air quality and aesthetics were not properly considered in the environmental impact report. In addition, the complaint also raised issues concerning lack of adequate public notice for public meetings on the project and lack of meetings. The initial study of environmental determination recommended a “negative declaration” whereby an environmental review report would not be required for the project.

All of these issues were addressed in the Board of Supervisors' staff report. The MMAC considered the project at the May 6, 2009 meeting where public comments and questions were taken. The applicant's project engineer was present to respond to questions.

## **FINDINGS**

- F1. All matters of contention by the MAA were addressed in the Board of Supervisors' staff report. The Board of Supervisors approved all recommendations in the staff report for modification of the building permit.
- F2. All required actions were performed by the CDD according to applicable laws and regulations. Approval of the project by the Planning Commission and the Board of Supervisors afforded many opportunities for public review and comment. The Morada Monitor provided important information to their readers concerning the application approval process and issues involved.

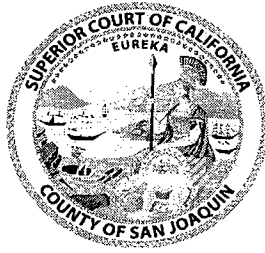
## **RECOMMENDATIONS**

None

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Board of Supervisors within 90 days of publication of this report.

## San Joaquin County Grand Jury



### NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT

2009/10 San Joaquin County Grand Jury Case No. 0809

#### SUMMARY

The San Joaquin County Grand Jury received a complaint from a citizen within the District with nine allegations. At the time of this report, most of these allegations were found to be without merit. The discussion section will identify all the allegations.

#### GLOSSARY

California Water Code (**CWC**)

East Bay Municipal Utility District (**EBMUD**)

Ground water storage (**the aquifer**)

North San Joaquin Water Conservation District (**District**)

People living in the North San Joaquin Water Conservation District (**Residents**)

State Water Resource Control Board (**SWRCB**)

#### BACKGROUND

The District Board of Directors has placed Measure C on the June 2010 ballot. This measure is crucial to providing an adequate water supply to the district's water users.

Measure C reads in part:

“... Measure V be repealed to allow North San Joaquin Water Conservation District to impose and collect a groundwater charge as described in the Water Code. . .”

In an effort to prevent the assessment of a groundwater charge the City of Stockton was approached about the possibility of buying the water allocated but not used by the District. This sale would have provided a funding source for needed infrastructure without imposing a groundwater charge. Initially the City of Stockton was interested but declined due to the cost of the environmental impact study. This response was reported to the Board and the City of Stockton.

The brief history below describes the necessity for this groundwater charge.

When the District was formed in 1948, they immediately applied for the right to draw 50,000 acre feet per year of water from the Mokelumne River, which flowed through the District. This water was needed to replenish the aquifer. In 1956, the State denied this request and gave the water rights to EBMUD even though they had applied six months after the District. The common law of water allocation has always been the first applicant has the right to the water. This denial was based on plans for construction of the Folsom South Canal to divert water from the American River in the near future, from which the District could withdraw its fully allocated 50,000 acre feet per year. The Folsom South Canal Extension was never built and no additional water was allocated to the District. The State granted the District a temporary permit for 20,000 acre feet of water per year, if EBMUD had surplus water. EBMUD has surplus water to give the District about 50% of the time. This makes the water supply for the District very unpredictable. Lack of use has caused the District distribution systems to fall into disrepair.

Because this surplus water is not always available, most farmers in the area have been forced to rely on well water from their own pumps to irrigate their fields. This has caused serious depletion of the aquifer. According to the Engineer's Report of June 2009, the overall annual average decline in the water level was 6.0 feet.

In November 2006, the District was informed by the SWRCB that they were not going to extend their permit unless they began actually using the allotted water. The District had been only using 3000 acre feet per year of their 20,000 acre feet allotment. To utilize all of the water allotment, additional infrastructure would be required. The District needed to repair and upgrade the distribution system and make environmental improvements. If the District did not meet the SWRCB conditions and begin utilizing the water in a timely manner, the EBMUD surplus water would be lost to the District. Due to the expenses necessary to meet these requirements, in May 2007, the Board hastily approved a resolution adopting a ground water charge to fund these improvements. The CWC Section #75480.5 through #75481 allowed the Board to proceed in this manner. They were not required to go to a vote of the Residents.

This assessment was effectively a tax on all property owners of the District. The Board did not adequately communicate the necessary reasons for this assessment prior to their decision. This caused a number of the Residents to circulate a petition for a vote to overturn the assessment. Measure V was placed on the ballot and it passed, thus repealing the ground water charge. This has caused a lack of funds to meet the SWRCB requirements and has put the water supply of the District in jeopardy.

## **METHOD OF INVESTIGATION**

The Grand Jury conducted interviews with the complainant, constituents, legal counsel, past and present members of the Board and District employees.

### Materials Reviewed

- Independent Audit Reports for the past five fiscal years
- California Water Codes applicable to the District
- District website: [www.nsjgroundwater.org](http://www.nsjgroundwater.org)
- Lodi News Sentinel for relevant articles
- Maps of the District
- Voter Registration Rolls
- Board meeting minutes for previous two years

### Additional Investigative Procedures

- Attended the January 2010 Board of Directors meeting
- Consulted with San Joaquin County Counsel
- Interviewed independent Auditor of District

## **DISCUSSION**

The first allegation was the District failed to perform annual audits as required by law. Copies of audits for fiscal years ending in June 2005, 2006, and 2007 were obtained from the San Joaquin County Auditor-Controller. The Grand Jury was supplied with copies of the audits of fiscal years ending in June 2008 and 2009 from the District management.

The second allegation was there were no sealed bids or advertising for projects in the District. Our investigation revealed that in the past the District advertised for bids with no response. The project was then awarded to a known area contractor. Under the CWC, the District is not required to put projects out to competitive bidding.

The third allegation was that bills were paid prior to board authorization. When the Board adopts a budget and payments are made within the budget, no further authorization is required. Any payments for non-budgeted items are approved by the Board at the following meeting. The CWC does not require prior Board authorization for expenditures. Because the Board only meets quarterly, it would make it difficult to run the operation of the District if prior Board authorization were required.

The fourth allegation was that the District's budget year does not conform to State and County fiscal years. The audit clarifies that the fiscal year and the water year is July 1 to June 30 year. However, to assist in planning, the District's budget year is a calendar year.

The fifth allegation was that not all Board Members live within the boundaries of the District. It was alleged that a Board member owned property in the District but did not reside in the District. At the time of this report, all Board members reside in the District.

The sixth allegation was that the District's legal counsel had a conflict of interest because her firm also represented Stockton East Water District. Investigation showed the Board had been notified that her firm also represented other water districts. There are few law practices with expertise in water law and it behooves the district to have competent counsel.

The seventh allegation was that the District has no Mission Statement, Policy Manual or job descriptions. It is a small district with two employees and a Policy Manual and job descriptions are unnecessary. The District does not have a stated Mission Statement but their website does have a "Purpose" which serves as a Mission Statement.

The eighth allegation was that news releases were manipulated due to a relationship with the Lodi News Sentinel. This allegation was unfounded.

The ninth allegation was improper storage of public records which failed to provide adequate public access. Investigation showed that many records were stored in Lodi City Hall. City employees were able to supply copies of requested records. The General Manager has custody of personnel records. Historical records are stored by the City of Lodi.

The Grand Jury understands the difficult responsibility of providing positive interaction with the Residents of the District while enforcing compliance with the codes. Democracy works best when people are informed about the governments that are created to serve them.

## **FINDINGS**

- F1. Measure C is on the June 2010 ballot. Passage of Measure C will provide funding for the necessary rehabilitation of infrastructure to fully utilize the 20,000 acre feet per year and recharge the aquifer.



- F2. The CWC does not mandate that the District use sealed bidding procedures and does not require prior Board approval to pay bills.
- F3. The District develops an annual operational and capital budget based on their water allocation and adequate funding. Due to the passage of Measure V in November 2008, the capital budget is no longer valid as a result of lack of funding.
- F4. The District does not have nor is it required to have a Policy Manual, Operations Manual or job descriptions.
- F5. Not all Board members have had training in the Brown Act.
- F6. The Board has instituted town hall type meetings to better educate its constituents as to water availability to the District.
- F7. Annual audits and reports to the State Comptroller and County Auditor are done appropriately. These were conducted by an independent CPA/Auditor.
- F8. The storage of District public records provides public access.
- F9. There is no apparent manipulation of news regarding the District by the Lodi News Sentinel.
- F10. At the time of writing this report all board members reside in the district.
- F11. Although the District's legal firm represents other water districts no conflict of interest was found.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

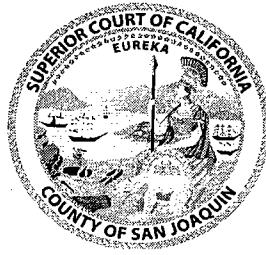
- R1. Due to the importance of Measure C, the Board make a concerted effort to educate their constituents of its content.
- R2. The Board establish a minimum dollar value above which all projects will be bid. In the pursuit of transparency, and to restore confidence in the Board, it would be appropriate to seek sealed bids for all major projects.
- R3. For an orderly transfer of duties the District establish a policy manual, operations manual, and job descriptions.
- R4. The entire Board receive training in the Brown Act and the fiduciary responsibilities of a Board member. This training is available from various sources including the California Special District Association ([www.csda.net](http://www.csda.net)).

R5. The Board continue town hall meetings to inform constituents of the District's needs and priorities.

**RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the North San Joaquin Water Conservation District Board of Directors within 90 days of publication of this report.

## San Joaquin County Grand Jury



### PUBLIC APPOINTMENT PROCESS

2009/10 San Joaquin County Grand Jury Case No. 1009

#### SUMMARY

The 2009/10 San Joaquin County Grand Jury investigated the public appointment process. Hundreds of private citizens are appointed through this process to various public boards/commissions/committees (BCC) throughout the county. The loose guidelines of appointment have allowed appointed individuals to go unchecked. Without adhering to strict background checks, the appointment process lacks emphasis on fiduciary responsibility.

#### BACKGROUND

The Grand Jury interviewed a variety of BCC members. During these interviews, the Grand Jury became aware of shortcomings in the public appointment process. The Grand Jury had the following concerns:

- What is the need for BCC?
- How individuals are appointed?
- How appointee performance is measured?
- Are candidates interviewed?
- How are prospective appointee qualifications verified?
- What is the process for removal of an appointee?

According to the California Government Code:

**Section 54970(a)** *"The Legislature finds and declares that a vast and largely untapped reservoir of talent exists among the citizenry of the State of California, and that rich and varied segments of this great human resource are, all too frequently, not aware of the many opportunities which exist to participate in and serve on local regulatory and advisory boards, commissions, and committees."*

**Section 54971(a)** *"Legislative body" means the board of supervisors or its chairman in the case of the county, or the city council or the mayor in the case of a city."*

**Section 54972** *"On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List..."*

**Section 54973** *"The Local Appointments List shall be made available to members of the public for a reasonable fee which shall not exceed actual cost. The legislative body shall designate the public library with the largest service population within its jurisdiction to receive a copy of the list."*

BCC were established to encourage public participation by making recommendations, investigating problems and issues, submitting comments, providing guidance and advice to elected officials. Appointees serve on regulatory and advisory bodies. Regulatory BCC has authority to hire and fire personnel, approve budgets and set policy.

Examples of BCC are: Planning Commission, Child Abuse Prevention, Agriculture Development, Community Mental Health Facilities, Parks and Recreation, Health Commission and Housing Authority.

## **METHOD OF INVESTIGATING**

The Grand Jury mailed hard copy and electronic survey questionnaires to school districts, the incorporated cities of San Joaquin County and the Board of Supervisors. Interviews were conducted with the Board of Supervisors and members of various BCC. City and county websites were reviewed for information regarding current BCC member qualifications and responsibilities. BCC county policies were studied to gain a better understanding of their duties, meeting location and frequency, and term duration.

## **DISCUSSION**

Qualifications for BCC appointments are based on residency and/or voter registration. Background investigations are not routinely completed on potential candidates. Some legislative bodies do not have policies or procedures in place to remove BCC appointees.

The number of BCC in the incorporated cities throughout the county is approximately 69. The Board of Supervisors has in excess of 100 BCC. At the time of writing this report, there were 45 vacancies out of a possible 467 appointees. School districts also have BCC with multiple appointments.

The majority of respondents to the Grand Jury survey had written policies and procedures for interviewing candidates, appointing members, conducting meetings, attendance policies, conducting business, budgeting, appropriations, deposits of funds and expenditures.

The process to fill vacancies is typically the same for cities, districts and the county. The Clerk of the legislative body advertises BCC vacancies in the newspaper, on meeting agendas and notices are posted in three separate public locations. Their respective websites also inform interested citizens and/or registered voters to apply. Applications are available on city, district and county websites. Applications are accepted by the Clerk for a thirty (30) day filing period. Following the close of the filing period, the appointing authority reviews the applications and decides whether to interview. Interviews are not typically conducted; instead the appointee is selected from an application screening only. The legislative body approves all appointees.

Compensation to appointed BCC members is not routinely provided. This lack of compensation may be the reason that vacancies on the average receive only three to five applicants. Although, the Grand Jury found that the recently re-formed Airport Advisory Committee had 21 well qualified people apply. With this added interest, the Board of Supervisors expanded the committee from seven to nine members.

## **FINDINGS**

- F1. Some legislative bodies do not follow policies and procedures for BCC appointments. The Grand Jury is aware of at least one instance where an appointee was not required to complete an application prior to appointment.
- F2. Brown Act and fiduciary responsibility training is not routinely offered for BCC.
- F3. Recruitment for vacant BCC appointments lacks initiative.
- F4. BCC appointee performance is rarely reviewed.
- F5. Policy for BCC appointee removal is not always defined.
- F6. Criminal and credit background investigations are not performed on appointees.

## **RECOMMENDATIONS**

The Grand Jury recommends that all legislative bodies:

- R1. Develop or update policies and procedures for appointment of BCC members.
- R2. Provide and document Brown Act and fiduciary responsibility training to all appointees.
- R3. Utilize alternative sources to advertise vacant positions; i.e. Twitter, movie theaters, television, radio, announcements at public events.
- R4. Annually review appointee performance and take appropriate action.
- R5. Develop policy and procedures defining the processes for appointee removal.
- R6A. Develop criminal and credit check standards for appointees.
- R6B. Perform criminal and credit background checks on all appointees prior to appointment

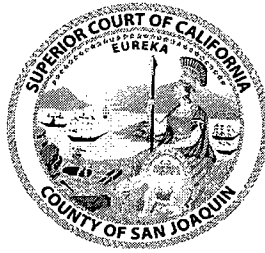
## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from:

- Escalon City Council
- Lathrop City Council
- Lodi City Council
- Manteca City Council
- Ripon City Council
- Stockton City Council
- Tracy City Council
- County Board of Education
- Lincoln Unified School District Board of Trustees
- Lodi Unified School District Board of Trustees
- Manteca Unified School District Board of Trustees
- Stockton Unified School District Board of Trustees
- Tracy Unified School District Board of Trustees
- San Joaquin Delta College Board of Trustees
- San Joaquin County Board of Supervisors

within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **CITY OF STOCKTON AUDITS**

2009/10 San Joaquin County Grand Jury Case No. 1209

#### **SUMMARY**

For the last several years, city leaders have been lax in resolving audit findings reported by the Stockton City Auditor. Audit topics included financial shortcomings and operational deficiencies. Since 2005, some department heads, prior City Councils and former City Managers were responsible for this lack of diligence in correcting exposed deficiencies. After media exposure and discussions with the Grand Jury, the current City Council is placing a higher priority on correcting audit findings.

#### **BACKGROUND**

The current City Auditor was hired 15 years ago by the Stockton City Council when the position was created. The auditor reports directly to the City Council. All City Council members respect his professional integrity.

On November 19, 2009, the *Stockton Record* published an editorial regarding the poor resolution of audit findings by the City Manager's Office, Library, Parks and Recreation, and City Clerk. Earlier in the decade, a high percentage of the audit findings were completed in a reasonable timeframe. Over the past three years, audit findings have not been resolved in a timely manner. The City Council failed to motivate the City Manager to address audit findings until the editorial was published and the Grand Jury inquiry. Since these events, more department heads attended the City Council Audit Committee meetings.

#### **METHOD OF INVESTIGATION**

The Grand Jury interviewed City Council members, city staff, and conducted internet research regarding the contents of the outstanding audits from the City's website. Additionally, Grand Jurors attended the March 2010 audit committee meeting.

## DISCUSSION

The auditor's findings are significant because their resolution improves operational efficiency of the city, reduces operational expenses, and may increase revenue. During the fifteen years of audits 88 findings have required departments to develop solutions. Before an audit is closed, the audit department verifies the resolutions of the findings are implemented. Prior to 2005, 89% of audit findings were closed. In 2005, 68% of the audit findings were resolved. In 2008 only 21% of the audit findings were resolved. On September 23, 2009, the Auditor reported to the City Council there were 26 open findings, one dating back six years. Seventeen findings were identified in the City Manager's office, six in the Library, two in Parks and Recreation, and one in the City Clerk's office.

At the March 17, 2010 Audit Committee meeting, five of the Library findings were reported resolved. The new City Librarian had only been on the job for 10 days. In truth, most of the work had already been done, but he ensured these five were completed quickly. The other departments' audit finding resolutions were only partially completed.

The practice of performance review evaluation has been inconsistently applied for years by the city councils and city managers. According to current City Council members, prior to 2009, city managers did not receive performance evaluations for 7-8 years. However, in mid-2009, the Council conducted a performance evaluation on the City Manager. Also, the city managers did not perform evaluations of their city department heads. The lack of performance evaluations by the City Manager was the cause of the audits not being completed in a timely fashion. The City Auditor does not set the target date for a response to audit findings. These dates are set by the City Manager and the department heads. Extensions of the target dates are also made by the City Manager and the department heads.

Some City Council members expressed concern that the remaining open audit findings cannot be addressed due to staffing reductions. However, ignoring the audit findings will have a more significant negative economic impact. It is imperative that the City find a way to resolve all the findings.

Audit finding number 159-02 concerns the processes used in construction management of the Events Center. This includes contract letting, contract oversight, and contract management. The City cannot go back and make changes to the Events Center. However, as indicated in the audit findings, the City can use this experience as a "lesson learned" to improve the construction management processes. The improved processes would benefit the City's planned \$200 million Delta Water Supply Project. As of March 1, 2010, \$42 million of the estimated expenditure of \$217 million was spent due to the wet weather. The majority of the construction has not yet started. The processes addressed in these findings must be in place as soon as possible to prevent mismanagement of the dollars to be expended. If not done now, the potential cost may



even exceed next year's City deficit. At the present time, the water project is \$15 million over its original estimate.

For additional information please refer to the following websites:

[www.deltawatersupplyproject.com/DWSPprojectupdate1007.pdf](http://www.deltawatersupplyproject.com/DWSPprojectupdate1007.pdf)

[www.deltawatersupplyproject.com/ConstructionUpdate\\_Mar2010.pdf](http://www.deltawatersupplyproject.com/ConstructionUpdate_Mar2010.pdf)

## **FINDINGS**

- F1. Many audit findings are partially complete with varying fiscal impacts.
- F2. Resolution of the findings in Audit 159-02 might prevent unforeseen losses in the Delta Water Supply Project.
- F3. Target date for the completion of a response to the findings in an audit are set by those who have to prepare the response.
- F4. Performance evaluations of city managers and department heads have not been conducted consistently.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

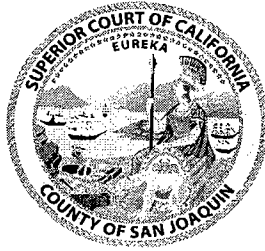
- R1. All open audit findings be resolved and closed.
- R2. The findings in Audit 159-02 must be addressed and concluded as soon as possible.
- R3. Target dates for a response to the findings in an audit shall be set by the Auditor and enforced by the City Council.
- R4. The City Council conduct an annual performance evaluation of the City Manager.
- R5. The City Manager conduct annual performance evaluations of all department heads.
- R6. The City Council immediately update the construction management processes for capital outlay projects.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding

Judge of the Superior Court from the Stockton City Council within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **FIRST 5 OF SAN JOAQUIN**

2009-2010 San Joaquin County Grand Jury Case No. 1309

#### **SUMMARY**

Since 1998 San Joaquin County received its pro-rata share of California cigarette taxes from Proposition 10. These taxes provide funding for pre-school education preparedness. The San Joaquin County Children and Families Commission (First 5) was established by the County as an autonomous entity to receive funding, disburse grants and incur administrative expenses. The grant recipients are published on the First 5 web site.

#### **BACKGROUND**

The 2009/10 Grand Jury received a complaint that First 5 was not clearly reporting grants awarded to entities that have representatives who are First 5 Commissioners.

Eight of the nine First 5 Commissioners are associated with entities that receive grants. Each Commissioner reportedly recuses themselves from their respective grant request. First 5 does not summarize these grants in its financial reporting as to percentage and amount.

First 5's financial report for fiscal year ending June 30, 2009 does not disclose the grant amount for each Commissioner associated with an entity.

First 5 received an annual average of \$10.9 million in "Prop 10 Funds" during the past two years. It averaged annual expenses of \$17.8 million during those two years. The \$13.7 million excess of expenses over revenue was drawn from accumulated reserves. Accumulated reserves totaled \$8.6 million on June 30, 2009.

## **DISCUSSION**

In an effort to reduce risk of self-dealing and conflict of interest activities, First 5 strives for public transparency through its website activity reports.

Government Accounting Standards Board Code section 2300.107f and Statement of Accounting Standards 45 paragraph 11-12, require every government agency to disclose amounts awarded to related parties in the footnotes of audited financial statements.

Generally Accepted Accounting Principles require disclosure of related party transactions if a Commissioner entity receives a contract or award.

## **METHOD OF INVESTIGATION**

The Grand Jury interviewed county personnel, reviewed the First 5 website, hard copy reports disclosing grant recipients and amounts of awarded grants. The First 5 annual audited financial statements and related footnotes for the year ended June 30, 2009 were reviewed.

## **FINDINGS**

- F1. First 5 failed to comply with California Government Accounting Standards Board Code Section 2300.107f and Statement of Accounting Standards 45 paragraph 11-12 reporting requirements.
- F2. Reporting of associated entity transactions are not disclosed in the First 5 annual audited financial statements for the fiscal year ending June 30, 2009.

## **RECOMMENDATIONS**

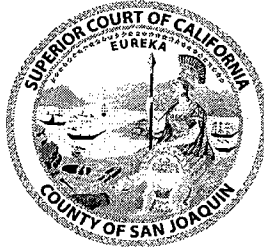
The Grand Jury recommends that First 5:

- R1. Comply with California reporting requirements.
- R2. Annual reports shall disclose amounts awarded to each Commissioner related entity.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the First 5 of San Joaquin Board of Commissioners within 90 days of publication of this report.

## San Joaquin County Grand Jury



### SAN JOAQUIN DELTA COMMUNITY COLLEGE

#### BROWN ACT VIOLATIONS

2009/10 San Joaquin County Grand Jury Case No. 1409

#### SUMMARY

The Grand Jury received a complaint regarding the conduct of some members of San Joaquin Delta Community College Board of Trustees (Board). The allegations included violation of the Brown Act – specifically serial meetings and disclosure of confidential information.

Similar charges have been reported and investigated by prior Grand Juries and are addressed in the follow-up section of this year's Grand Jury Report No. 0909F. Due to the seriousness of the charges presented, the Grand Jury opened a new investigation.

The Grand Jury found substantial evidence that three Trustees violated the Brown Act and/or the Code of Ethics. In this report, these Trustees will be referred to as Trustee A, Trustee B and Trustee C.

The consequences of violating the Brown Act include voluntary resignation, censure by the Board and accusation.

#### GLOSSARY

**Accusation** –California Government Code Sections 3060-3075 in part states, if a grand jury investigation reveals willful or corrupt misconduct by any public official the grand jury may present an accusation to the district attorney. The district attorney shall serve notice upon the defendant to appear in superior court. An accusation is a hybrid of criminal and civil proceedings which may result in removal from office.

**Board** – Board of Trustees of San Joaquin Delta College

**Brown Act** – California Government Code Sections 54950-54963

**Censure** – “*An official expression of disapproval of the behavior of a Board member.*” (San Joaquin Delta Community College Board of Trustees Code of Ethics and Standards of Good Practice Section B4)

**Code of Ethics** – San Joaquin Delta Community College Board of Trustees Code of Ethics and Standards of Good Practice per Accreditation Standard IVB; Government Code Section 1090, et seq.; 1126; 87200, et seq.; Title 2 CCR Section 18730 et seq.

**Delta** – San Joaquin Delta Community College

**Trustee** – Member of the Board

## **BACKGROUND**

The 2009/10 Grand Jury received a complaint alleging violations of the Brown Act by one or more Trustees. Interviews were conducted and several witnesses corroborated the allegations and testified they had been approached by Trustee A, in violation of the Brown Act.

The Brown Act was enacted to ensure that all normal, non-confidential business before any Board or Public Agency be conducted in public view. Code Section 54950 states, “*It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.*”

Brown Act Section 54952.2(b)(1) states, “*A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.*”

Trustee A initiated a “hub” serial meeting. Trustees B and C knowingly participated in this meeting and agreed to vote with Trustee A when the issue was presented.

Brown Act Section 54963 states, “*. . . a person may not disclose confidential information that has been acquired by being present in a Closed Session ...to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.*” Similarly, the Code of Ethics Section A 10 states, “*The Board shall maintain confidentiality of privileged information and Closed Session information.*”

Trustees A and B disclosed confidential information from a Closed Session in a public session despite the efforts of other Trustees to prevent the disclosure.

Brown Act Section 54963(c) states, “*Violation of this section may be addressed by the use of such remedies as are currently available by law, including ... (3) Referral of a*

*member of a legislative body who has willfully disclosed confidential information in violation of this section to the Grand Jury.”*

A complaint was received by the Grand Jury alleging both violations.

All Trustees testified they had attended classes on the Brown Act and were generally familiar with its provisions. During testimony witnesses appeared to understand the basics of the law. They also indicated they knew the law was to ensure public awareness of all information that influenced the decisions of the Board.

## **METHOD OF INVESTIGATION**

The Grand Jury:

- Interviewed all Trustees and several staff members.
- Reviewed and analyzed written evidence.
- Attended several Board meetings.
- Reviewed list of Brown Act classes and attendees.
- Reviewed the Brown Act.
- Reviewed sections of the Penal Code pertaining to the issuance of an accusation by the Grand Jury.

## **DISCUSSION**

The focus of this report is the violation of two parts of the Brown Act and related ethics violations. The Brown Act violations include a serial meeting and the disclosure of confidential information discussed in a Closed Session.

A serial meeting is one type of meeting that violates the Brown Act. It can be conducted in different ways - through sequential contact between members - one member contacts another who then contacts another until a majority of the Board has been contacted. A “hub” style serial meeting is conducted by one person contacting a majority of the Board members. Contact can be in person, by telephone, email or any other form of written or verbal communication.

Trustee A was the “hub” of a serial meeting. Trustee A contacted Trustees B and C prior to attempting to solicit an additional vote from other Trustees to obtain a majority. Trustee B and C agreed to assist Trustee A by offering to attend a meeting with another Trustee.

Once Trustee A was assured that B and C would support the objective, Trustee A contacted two other Trustees in an attempt to reach a pre-meeting majority. Both of these

Trustees, to their credit, immediately recognized the illegality of the meeting and refused to participate. These Trustees have come forward with information concerning the activities of Trustees A, B and C.

The details of the reported serial meeting were corroborated by the sworn testimony of several witnesses.

Confidential information obtained during a Closed Session was disclosed on more than one occasion during the public portion of the meeting by Trustees A and B. Other Board members attempted to prevent this disclosure; they were ignored by Trustees A and B.

## **FINDINGS**

- F1. All Trustees were familiar with the Brown Act and acknowledged receiving training on its provisions.
- F2. Trustees B and C cooperated with Trustee A in setting up and volunteering to attend a meeting with other Trustees to convince at least one other Trustee to vote a particular way.
- F3. Trustee A violated the Brown Act by disclosing confidential information discussed in a Closed Session in the public portion of the Board meeting.
- F4. Trustee B violated the Brown Act by disclosing confidential information, discussed in a Closed Session, in the public portion of the Board meeting.
- F5. Training classes on the Brown Act, paid for by Delta, were made available to all Trustees, both on-site and off-site.
- F6. It is difficult to confirm Trustees attended and completed off site training on the Brown Act due to lack of verifiable documentation.
- F7. Trustee A willfully violated the Brown Act by acting as the “hub” of a serial meeting, attempting to influence the vote of at least three other Trustees.

## **RECOMMENDATIONS**

The Grand Jury recommends:

- R1. Trustees take responsibility for keeping themselves apprised of required training opportunities.
- R2. Censure of Trustees A, B and C by the Board for cooperating in violating the Brown Act.
- R3. Censure of Trustee A by the Board for disclosing confidential information from a Closed Session in a public forum.

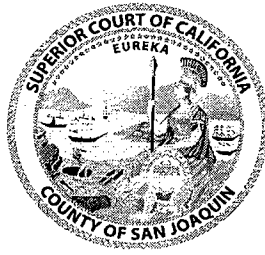


- R4. Censure of Trustee B by the Board for disclosing confidential information from a Closed Session in a public forum.
- R5. The President of the Board ensures that all Trustees participate and complete, at least quarterly, mandatory training clarifying the legalities and intent of the Brown Act.
- R6. The Clerk of the Board maintain records verifying Trustee attendance and completion of all training, especially relating to the Brown Act.

#### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin Delta Community College Board of Trustees within 90 days of publication of this report.

## **San Joaquin County Grand Jury**



### **SAN JOAQUIN DELTA COLLEGE STUDENT DISCIPLINE PROCEDURE**

2009/10 San Joaquin County Grand Jury Case No. 1509

#### **SUMMARY**

The Grand Jury received a complaint regarding San Joaquin Delta College's (Delta) student discipline procedure. Two allegations were presented: inconsistent imposition of discipline and unwillingness to investigate claims. At the time the Grand Jury received the complaint, the Complainant was no longer a student at Delta and was pursuing educational opportunities elsewhere. Therefore, the Grand Jury investigation focused on Delta's processes and not the specific disciplinary action taken against the Complainant. The Grand Jury found Delta does not investigate student claims and recommends Delta draft and apply an investigation policy and procedure.

#### **GLOSSARY**

**Associated Student Body Government (ASBG)**

**Complainant** - person who submitted the complaint to the Grand Jury

**Vice President of Student Services (VP)**

#### **BACKGROUND**

The Grand Jury received a complaint regarding Delta's student discipline procedure. The Complainant described a series of events culminating with his suspension, allegedly without due process. Based on the circumstances presented, including the allegations, series of events and parties involved, the Grand Jury conducted an investigation.

The Complainant was a straight "A" student and elected officer of the ASBG. He discovered possible improprieties regarding the flea market and brought the issue to the VP who "oversees" the ASBG. They discussed the issue on several occasions; the VP

did not share the Complainant's concerns. The Complainant expressed his concerns, including his opposition to the VP's decisions regarding the flea market, in the public comment section of the Delta Board of Trustees meeting.

Approximately three weeks after the public comments, the VP received a verbal complaint from a female ASBG officer regarding the Complainant. Apparently, the Complainant refused to meet and discuss the issue. Less than two weeks after the verbal complaint was made, three written complaints against the Complainant were submitted to the VP. Two of these written complaints were brought by ASBG officers and one by a former ASBG officer who had been involved with the flea market. The complaints alleged inappropriate/harassing comments and behavior.

The same day the VP received the last two written complaints, her office sent a letter to the Complainant advising him that she had "received several reports regarding *inappropriate behavior/disturbing communication/harassment towards Delta College students.*" Furthermore, he was "in violation of the college's *Student Code of Conduct,*" should "contact this office immediately to schedule an appointment..." and a "misconduct hold" had been placed on his records.

The Complainant called the VP's office and verbally scheduled an appointment through her assistant; written confirmation was not employed. When the Complainant arrived for the meeting at 12:00 noon, he was informed that his appointment was 11:00 am. He disagreed. Although Delta's past practice was a "no show" forfeited the opportunity to provide his side of the story, the VP agreed to meet with the Complainant later that day at 3:30 pm. Prior to the meeting, a letter was drafted by the VP, but not signed. The letter:

- noted the missed meeting and forfeited opportunity to respond,
- determined his actions constituted "good cause" for discipline,
- informed him he was suspended and would be on probation if he returned to Delta at the end of the one-year suspension period, and
- stated he could appeal the suspension within five college days, in writing, to the Student Grievance Coordinator.

The Complainant returned at 3:30 pm and met with the VP. As the VP attempted to recite the allegations against him, the Complainant interrupted, asking if the information had been verified. The VP responded "the word of the person" filing the report was the verification. According to the VP, the Complainant "did not provide any information that would dispute the incident reports," and "he elected to only say that he did not do the things he was being accused of...." At the conclusion of the meeting, the VP signed the previously drafted letter and gave it to the Complainant.

The Complainant chose not to appeal, but rather filed a grievance requesting redress for "arbitrary or capricious or improperly discriminatory action affecting the evaluation of, or

impeding the progress of, the student's academic performance or achievement," and "improper or unwarranted imposition of discipline." The Complainant also consulted an attorney who wrote a letter and filed the Student Grievance Petition with the Student Grievance Coordinator.

Delta stated the grievance was "invalid" because the Complainant's suspension was based on Administrative Procedure 5500, *Standards of Conduct*, and Administrative Procedure 5530, *Student Rights and Grievances* states it cannot be applied to "student disciplinary actions covered under separate" policy. Delta also noted the Complainant's legal representation was not allowed.

## **APPROACH**

The Grand Jury interviewed the Complainant and Delta personnel. The following materials were reviewed:

- Board Policy 5500 Standards of Conduct
- Delta College Administrative Procedure 5500 Standards of Conduct
- Delta College Administrative Procedure 5500A Academic Dishonesty Report Form/Definition
- Delta College Administrative Procedure 5530 Student Rights and Grievances
- Delta College Administrative Procedure 5530A Student Grievance Petition
- Delta College Administrative Procedure 5530B Student Grievance Hearing Guidelines
- Delta College records hold policy, including hold code definitions
- California Education Code Sections 66017, 76030, 76031 and 76032
- Student file (including academic and disciplinary information)

## **DISCUSSION**

### **No Investigation by Delta**

During interviews, Delta personnel indicated there is no formal investigative process for evaluating complaints. Delta provided written documentation that corroborated the testimony. Apparently, an allegation is accepted as fact unless the accused can provide evidence to the contrary. The initial notice sent to the accused includes a statement that complaints have been received *and* a conclusion that he has violated the *Student Code of Conduct*. Unfortunately for the accused, a denial is not given the same evidentiary weight as an allegation.

The accused is further disadvantaged by Delta's policy of not providing details of the allegations prior to the meeting. The accused is expected to hear the allegation and defend against it during the same meeting. Based on the one-year suspension, the opportunity afforded the Complainant was unreasonable. He should have had advance notice of specific allegation details so he could prepare an informed defense.

It is reasonable to expect fundamental fairness and impartiality in the student discipline process. Prior to his suspension, the Complainant publicly denounced the VP who chose and administered his punishment. When such circumstances arise, an alternate official should be appointed to deal with the situation to avoid the appearance of impropriety.

Upon receiving a complaint, Delta places a "misconduct hold" on college records. This is a premature determination and reflects poorly upon the student. Delta has 29 Hold Codes, including a miscellaneous category, which could be used when a complaint is received. This would permit Delta to meet its objective without stigmatizing the student prematurely.

It has been Delta's practice to verbally arrange misconduct meetings. Also, if an accused misses the meeting, he forfeits the opportunity to defend himself. This is a heavy price to pay, especially if there is a misunderstanding about the details of the meeting. Such an important event set up during a verbal conversation should be confirmed in writing.

These policies and practices are unreasonable. Conclusions should be based on a thorough investigation. Disciplinary meetings must be fair and impartial.

### **Due Process**

California Education Code Section 76030 requires suspension be in accordance with due process, and accompanied by a *hearing* pursuant to Section 66017. Administrative Procedure 5500 Standards of Conduct requires review by a hearing panel prior to suspension. Delta does not comply with this policy. Delta does not adequately identify due process requirements and therefore did not demonstrate compliance.

### **Standards of Conduct vs. Student Rights and Grievances**

Delta has two distinct procedures for dealing with complaints depending on the issue. Administrative Procedure 5500 Standards of Conduct covers behavior and interpersonal conflict. Disciplinary action taken under this procedure can be appealed. Administrative Procedure 5530 Student Rights and Grievances covers sex discrimination, sexual harassment, financial aid and grades. It also includes "arbitrary, capricious, or improperly discriminatory action affecting the evaluation of, or impeding the progress of, the student's academic performance or achievement" and "improper or unwarranted imposition of discipline." Administrative Procedure 5530 Student Rights and Grievances lists specific actions "not grounds for use of the student grievance procedure," including student disciplinary actions, which are covered under separate policy.

After the Complainant was disciplined under Administrative Procedure 5500 Standards of Conduct he filed a 5530A Student Grievance Petition. On its face, the petition appears to be "invalid." However, the Complainant was not "grieving" the discipline, but rather the process. The 5530 "arbitrary and capricious" basis seems to apply to the Complainant's circumstances. The lack of an investigation, as discussed above, makes the process arbitrary and capricious. Additionally, suspension clearly impedes academic performance or achievement by disrupting continuity. The grievance was legitimate.

Furthermore, Delta's response to the Complainant grievance petition was issued after the appeal window closed. If he had been aware of Delta's position sooner, within the appeal timeframe, he may have taken a different course of action.

### **Consulting Attorney**

The prohibition against legal representation stated in Administrative Procedure 5500 Standards of Conduct appears to apply *during* a hearing. The Complainant consulted an attorney but had no legal representation during any meeting. Delta's written "reminder" to the Complainant regarding legal representation was unwarranted.

### **Access to Forms**

The Grand Jury encountered difficulty obtaining hard copy forms. Staff at administration, registration and counseling was unaware of forms available for filing complaints or where to make inquiries to obtain such material. These documents should be readily available at several common use facilities throughout Delta.

## **FINDINGS**

- F1. Delta does not investigate complaints alleging violations of Administrative Procedure 5500 Standards of Conduct.
- F2. Student discipline process does not adequately define due process requirements.
- F3. Delta places a misconduct hold on student records upon receiving a complaint.
- F4. Delta does not provide written confirmation of verbal arrangements.
- F5. Delta refuses to provide details such as accuser names, dates and circumstances of allegation to accused students prior to disciplinary meetings.
- F6. The disciplinary meeting with the Complainant was not fair and impartial.
- F7. Discipline based on Administrative Procedure 5500 Standards of Conduct may be arbitrary and capricious and therefore subject to Administrative Procedure 5530 Grievances.

- F8. Hard copy forms associated with the disciplinary process are not easily accessible throughout the campus and staff had difficulty providing direction.
- F9. Delta is erroneously using the disciplinary “meeting” as the equivalent of a “hearing” mentioned in the California Education Code Section 76030.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. Delta draft and abide by investigation procedures for complaints based on Administrative Procedure 5500 Standards of Conduct.
- R2. Delta clearly define discipline procedures and comply with due process requirements.
- R3. Delta apply “miscellaneous hold” instead of “misconduct hold” upon receiving complaint in an effort to maintain student integrity. At the conclusion of the process the appropriate hold will be applied.
- R4. Discipline policy include a required procedure to confirm all verbal communications with written correspondence.
- R5. Discipline policy include a required procedure to provide the accused advance access to allegations and associated details with reasonable time to review.
- R6. All disciplinary meetings are fair and impartial, including a neutral hearing officer.
- R7. Claims alleging disciplinary actions are arbitrary and capricious be subject to review under Administrative Procedure 5530 Student Rights and Grievances.
- R8. Hard copy forms associated with the discipline process are made available at multiple Delta common use facilities.
- R9. Delta utilize a suspension hearing panel as required by Administrative Procedure 5500 Standards of Conduct and the California Education Code.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin Delta College Board of Trustees within 90 days of publication of this report.

## **Section IV**

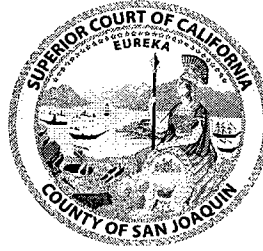
Law and Justice Authority and Overview .....	73
Detention Facilities .....	74
Law Enforcement Agencies Web Sites .....	75
Public Safety Ride Along Observations .....	76
Deuel Vocational Institution.....	78
Office of Sheriff-Coroner .....	82
San Joaquin County Courthouse, Stockton Main.....	85
Stockton Police Department .....	87
Juvenile Justice Center.....	89
DeWitt Nelson Youth Correctional Facility .....	90
N.A. Chaderjian Youth Correctional Facility.....	91
O.H. Close Youth Correctional Facility .....	92

## **Findings, Recommendations and Responses to 2008/09 Grand Jury Report**

Appendix A: Deuel Vocational Institution.....	93
Appendix B: San Joaquin County Sheriff's Office .....	96
Appendix C: Stockton Police Department.....	100



## San Joaquin County Grand Jury



### LAW AND JUSTICE AUTHORITY AND OVERVIEW

#### San Joaquin County Detention Facilities

and

#### Law Enforcement Agencies

### OVERVIEW, AN INTRODUCTION

The Grand Jury is mandated by California Penal Code to check into the conditions, operations and status of State, County and City Detention Facilities within the County. The Grand Jury is also charged with responsibility for investigating matters pertaining to public safety. The Grand Jury conducted inspections, received presentations and took part in general discussions while touring each facility. The Grand Jury revisited sites for purposes of fact finding, verification of statistics and to discuss reported findings.

The Grand Jury elected to investigate the status of the 2008/09 Grand Jury's findings and recommendations as well as the entities' responses. This report includes follow-up 0909D sections of the Grand Jury follow up report. For the readers convenience these are located in Appendix Sections A-C.

Example:

2008/09 **Finding** and/or **Recommendation** "regular text within quotation marks"

ENTITY Response to finding and/or recommendation: "*italics text within quotation marks.*"

The 2009/10 Grand Jury investigation for each of the entities response is located in the main body of this report.

Example:

**THE TOPIC** (See Appendix A-C, Finding (F#) and/or Recommendation (R#))

Website links have been added to this report for access to further information.

## **DETENTION FACILITIES**

San Joaquin County has ten detention facilities which were all visited by the Grand Jury, meeting the mandate of PC 919 (b). The detention centers are:

- California Department of Corrections and Rehabilitation (CDCR) prison, known as Deuel Vocational Institution
- San Joaquin County Jail, known as the John J. Zunino Detention Facility
- City of Lodi Jail
- San Joaquin County Superior Court Holding Facility, Stockton Branch
- San Joaquin County Superior Court Holding Facility, Lodi Branch
- San Joaquin County Superior Court Holding Facility, Manteca Branch
- San Joaquin County Superior Court Holding Facility, Tracy Branch
- California Department of Juvenile Justice - N.A. Chaderjian
- California Department of Juvenile Justice - O.H. Close
- San Joaquin County Juvenile Justice Center

## **LAW ENFORCEMENT AGENCIES WEB SITES**

SAN JOAQUIN COUNTY SHERIFF'S OFFICE (SO):  
<http://www.co.san-joaquin.ca.us/SHERIFF/default.htm>

ESCALON POLICE DEPARTMENT (EPD):  
<http://www.escalonfire.com/policefrontpage.html>

LATHROP POLICE DEPARTMENT (LPD/SO):  
<http://www.ci.lathrop.ca.us/lpd/>

LODI POLICE DEPARTMENT (LPD):  
<http://www.lodi.gov/police/>

MANTECA POLICE DEPARTMENT (MPD):  
<http://www.ci.manteca.ca.us/police/>

RIPON POLICE DEPARTMENT (RPD):  
<http://www.riponpd.org/>

STOCKTON POLICE DEPARTMENT (SPD):  
<http://www.stocktongov.com/Police/>

TRACY POLICE DEPARTMENT (TPD):  
<http://www.ci.tracy.ca.us/departments/police/>

## **PUBLIC SAFETY RIDE ALONG OBSERVATIONS**

The "Ride Along" opportunities for the 2009/10 Grand Jury allowed for hands on observation of systems and conditions of various fire and police operations throughout San Joaquin County.

### **OBSERVATIONS**

Jurors accumulated approximately 170 hours while participating in the ride along. All law enforcement agencies within the county participated. While patrolling, there were many citizen contacts requiring an estimated 115 incident reports. Some response times were delayed due to prioritization of calls and actual time enroute to the location. Other factors were the time to investigate and mediate the incidents and the necessity of documentation. Officers reported "dead spots" within their jurisdictions that made radio communications difficult.

All jurors who participated in the ride along had memorable moments that will last a lifetime. The ride along gave them a better understanding of the officer's job while observing officers working under potentially dangerous and very harsh conditions. Officer comments regarding the most interesting and rewarding aspects of their job included settling of issues, detaining and removing alleged perpetrator from the streets, creating a safe environment and returning personal property.

The Grand Jury observed duplication in the booking process of prisoners using the same electronic reporting system. One juror noted that during a ride along in Lodi, LPD uses the LiveScan system which is also used by other law enforcement agencies in our county to book prisoners. Then when transporting a prisoner to the County Jail, the same LiveScan booking entry information is repeated. Another juror noted that during a ride along in Tracy, an officer made an arrest, using LiveScan, at TPD, and then transported the suspect to County Jail. The officer said, "*How great this LiveScan is, it eliminates duplication, and expedites the booking at the county jail.*" The technology is used to expedite the booking process and should eliminate duplication. Duplication of the bookings appears to be a waste of time and non-use of resources.

The EPD recently moved into a new building. This impressive facility lacks visual monitoring capability of the detention cells and sally-port (an enclosed location to load and unload detained persons in a secure manner).

Assault rifles have become common in law enforcement agencies throughout San Joaquin County. However, the EPD does not have assault rifles.

## **FINDINGS**

- F1. SO: Radio communication “dead spots” exist within San Joaquin County. This compromises officer’s response and safety.
- F2. EPD: The new police facility is pre-wired for remote monitoring and is operational throughout except in the detention area.
- F3. EPD: Officers without immediate access to sufficient fire power are disadvantaged against a well-armed perpetrator(s).
- F4. Increased cooperation between law enforcement agencies has improved the effectiveness of the “LiveScan” system.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The SO improve the communication system within San Joaquin County to eliminate “dead spots.”
- R2. The EPD install camera(s) in the detention and sally-port areas.
- R3. The EPD evaluate the need to acquire assault rifles.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the Escalon City Council within 90 days of publication of this report. The San Joaquin County Sheriff must respond to the findings and recommendations contained in this report within 60 days of publication.

## **DEUEL VOCATIONAL INSTITUTION**

<http://www.cdcr.ca.gov/Visitors/Facilities/DVI.html>

(Awarded 2009 Best State Web Site)

<http://www.cdcr.ca.gov/index.html>

### **OBSERVATIONS**

The Grand Jury understands the limitations imposed upon detention facilities due to the current economic situation. The Grand Jury also understands that conditions and operations are imposed upon this facility by CDCR. DVI administration is meeting CDCR mandates as a reception center. Infrastructure repairs have been limited by state funding priorities. Budget cuts have also eliminated job training programs.

The Grand Jury supports the Warden in efforts to develop programs to provide a safe working environment for staff. DVI continues to deal with constraints of custodial regulations despite overcrowding.

The DVI Fire Department is first responder for this location. The Fire Chief recently transferred from San Quentin Prison Fire Department. The Fire Chief and two Fire Captains oversee an inmate crew of firefighters. DVI recently acquired two fire engines from the State Office of Emergency Services.

DVI instituted a proven program, WorkNet, offering inmates classes in communication skills for job applications and interviews. Classes help inmates prepare for their upcoming release and are conducted by WorkNet volunteers. [www.sjeworknet.org](http://www.sjeworknet.org).

The Warden has regular meetings with an advisory group from the City of Tracy to recruit volunteers for inmate transition and support functions.

### **INVESTIGATION**

The Grand Jury reviewed the CDCR/DVI response to the 2008/09 Grand Jury Report consisting of five findings and two recommendations, and conducted a follow-up investigation. On November 18, 2009, DVI staff was interviewed.

**Overcrowding** (See Appendix A, F1)

The CDCR has contracted for 8000 beds in out-of-state facilities for transferring prisoners that meet specific criteria. Long-term sentenced prisoners must be in good health, cannot be parole violators, nor have pending court proceedings. CDCR is using this method to help alleviate current over crowding conditions.

November 2, 2009 CDCR news release:

*“SACRAMENTO – In its continuing effort to reduce prison overcrowding and increase access to health care and rehabilitation programs, the California Department of Corrections and Rehabilitation (CDCR) announced today that it has amended its agreement with the Corrections Corporation of America (CCA) to temporarily house additional inmates out of state. This addendum will allow an additional 2,336 out-of-state beds to house California offenders, for a total of 10,468 beds . . .”* See complete article at:

[http://www.cdcr.ca.gov/News/2009\\_Press\\_Releases/Nov\\_02.html](http://www.cdcr.ca.gov/News/2009_Press_Releases/Nov_02.html)

**Kitchen** (See Appendix A, F2 and R1)

An application was submitted to correct the problem and is pending funding. DVI does have capability to declare an emergency in the event of failure or crisis. Situation is being monitored as the application continues through the process.

**Trust Restitution Accounting Canteen System (TRACS)** (See Appendix A, F3)

There has been recent implementation of the TRACS. Inmates no longer have to wait for their trust accounts to be transferred after the inmates have been moved from one institution to another. The system is functioning as intended and has greatly expedited the process for both CDCR and inmates.

**Improper Releases** (See Appendix A, F4)

Two improper releases of inmates can be traced to the failure of staff and inadequate release procedures. DVI has amended the process and procedures for release, which include a check and balance verification with additional training of staff conforming to CDCR procedures. The Grand Jury was advised that no further problems were noted and the revised procedures are working.

**Positive Identification** (See Appendix A, F5 and R2)

There has been no further development or current ability to obtain this fingerprinting capability. CDCR Department of Adult Parole Operations (DAPO) has implemented a statewide "PhotoCapture" system to update inmate photos prior to release.

**FINDINGS**

- F1. Kitchen facility repair or replacement has not taken place.
- F5. There has been no further development or current ability to obtain a goal of positive fingerprint identification. A portable "Life-Scan" unit would provide additional flexibility for use within the prison for situations requiring immediate inmate identification. This improves prison security for guards and inmates. "Life-Scan" is currently in use with other local law enforcement agencies and beneficial to all jurisdiction(s).
- F6. Inmate relocation to out of state prisons is being used to alleviate overcrowding.
- F7. DVI has improved on-site emergency preparedness. However, no formal communication exists with other local fire jurisdictions.
- F8. A new system of updating inmate photographs (DAPO) is now in effect.

**RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. CDCR fund repair/replacement of kitchen:
  - a. Respond to outstanding work orders of 2008 Food Facility Inspection
  - b. Respond to status of March 4, 2010 Memorandum concerning fire and life safety issues-culinary
- R2. CDCR implement a fixed and portable "Life-Scan" system for intake and release of inmates.
- R3. CDCR provide annual updates to the Grand Jury regarding the status of overcrowding.
- R4. CDCR establish additional on-site training and familiarization with DVI staff and other local fire jurisdictions.



## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the California Department of Correction and Rehabilitation within 90 days of publication of this report.

## **OFFICE OF SHERIFF-CORONER**

### **SAN JOAQUIN COUNTY JAIL**

#### **John J. Zunino Detention Facility**

## **OBSERVATIONS**

At times, the jail does not have enough space for all the inmates. Inmates are being released after serving one half or less of their sentence. Inmates with minor offenses are being released with little or no time served.

California AB900 legislation, lease bond revenue, will make money available to build a larger jail. However, there are insufficient funds available in the budget to support additional staffing. The Sheriff continues to monitor CDCR plans to expand the county jail facilities and the complications of post construction implementation costs.

The Sheriff's vision for the future:

- Increase patrols for rural communities
- Develop special enforcement teams
- Develop correctional and law enforcement training academies
- Encourage volunteerism by expanding interaction between Sheriff's Team Active Retired Seniors (STARS) and the Sheriff's Citizens Academy

## **INVESTIGATION**

The Grand Jury reviewed the SO response to the 2008/09 Grand Jury Report consisting of two findings and three recommendations and conducted a follow-up investigation. On November 18, 2009, the Sheriff-Coroner and staff were interviewed.

### **Kitchen Status** (See Appendix B, F1 and R3)

The County of San Joaquin and the SO has entered into a three year contract with Aramark to have all daily meals delivered to the jail starting on December 12, 2009. The contract provides for two one-year extensions. This is a temporary system until permanent changes relating to expansion or replacement of the current facility. The jail kitchen at the Honor Farm has been dismantled. There is ongoing work to repair the infrastructure of the building. The tray washing facility has been revamped. Overall sanitation concerns have been rectified. *Title 15 Minimum Jail Standards* have been met.

**Court Safety** (See Appendix B, F2 and R2)

Note: Refer to San Joaquin County Courthouse, Stockton Main Report for further discussion.

The Grand Jury reviewed the SO response to the 2008/09 recommendations and investigated the status of court safety. Actions taken relating to procedural operations of the main Stockton San Joaquin County Court Services Security, a division of the SO, were reviewed.

This review was subsequent to an attack upon a Superior Court Judge and two separate escape attempts in 2008. The investigation examined whether sufficient safeguards were implemented to reduce further escapes and limit assaults to persons within the confines of the main Stockton San Joaquin Courthouse.

The Grand Jury met with SO Court Services, the Court's Business Services Manager and a supervisor of the Guardsmark Security Corporation (a contracted security firm). The Grand Jury toured facility layout, observed custody operations, courtroom procedures and security screenings at various times throughout this investigation. The Grand Jury reviewed current Court Security Policies and the Custody Division's Policies and Procedures.

After the judge was attacked, the SO conducted a Post Incident Review which resulted in several changes to internal communications, custodial procedures and equipment.

Communication has been greatly enhanced by the establishment of a liaison between the Jail Classification Unit, District Attorney Investigators, and the court security staff. These offices are in daily contact.

A grant allowed purchase of a Body Orifice Security Scanner (BOSS) metal detection chair. This metal detection chair was installed and implemented in August of 2009. BOSS can determine if the prisoner has the presence of metal on their body when entering the courthouse jail. Each prisoner is scanned prior to "pat-down" and before classification segregation.

Defense attorneys prefer defendants wear street clothes during jury trials. The courthouse building design does not allow complete segregation of inmates from civilians. This may lead to inmates being given prohibited items or escaping. This is one of the greatest exposures to public safety.

Custody staffing levels were reduced prior to the incident. The Post Incident Review indicates insufficient deputies to provide courthouse security. Current staffing makes matching officers to courtrooms a logistical nightmare. The high volume of court cases, fast-paced environment and required paperwork created numerous distractions for the bailiffs. Bailiffs have been directed to slow down and concentrate on their primary duty,

which is courtroom security. Bailiffs are required to stand by an inmate witness. For non-criminal cases, Guardsmark provides bailiff services.

Restraints in the form of anchored shackles have been installed in courtrooms. Defendants who pose a risk to courtroom safety are tethered as directed by the judge. This action takes place out of the presence of the jury. Inmates are not moved into or out of the Stockton Courthouse temporary holding facility unless they have handcuffs, waist chains and/or leg restraints based on the inmate's risk classification.

**Video Arraignment** (See Appendix B, R1)

Note: Refer to San Joaquin County Courthouse, Stockton Main Report for further discussion.

The SO supports video arraignment but has no jurisdictional authority. The SO was the only responder to the 2008/09 Grand Jury recommendation. The Grand Jury has chosen to revisit this issue.

**FINDINGS**

- F1. The SO implemented temporary Cook-Chill operations as a temporary fix to Honor Farm Kitchen Facility replacement.

**RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The SO make arrangements to proceed with construction of a replacement kitchen at the County Jail.

**RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Sherriff within 60 days of publication of this report.

## **SAN JOAQUIN COUNTY COURTHOUSE, STOCKTON MAIN**

### **OBSERVATIONS**

The Grand Jury met with SO Court Services, Presiding Judge, County Administrator, Facilities Management Director, and the Court's Business Services Manager as well the Assistant District Attorney, a Chief Deputy District Attorney and the Public Defender. The purpose of the investigation arose from issues of previous Grand Juries and Courthouse safety.

The Grand Jury toured custody operations and facility layout. Research of this building's intricate multi-functional usage revealed complex ownership between State and County employees. The complex ownership of this building makes defining responsibility difficult. During this investigation the Grand Jury found or revealed one safety issue and one security issue. Prior to the writing of this report both issues were resolved.

### **VIDEO TELECONFERENCING**

The Grand Jury revisited the implementation of video arraignments. A video teleconferencing system has many benefits that provide improvements in security for staff, visitors and inmates. The video teleconferencing system can be used by family, juvenile and adult courts. The video teleconferencing system also accommodates attorney/inmate conferencing, investigative interviews, arraignments, pleas and motions. With safety as the primary goal of video teleconferencing, the benefits realized through its implementation far outweigh the cost. The video teleconferencing system requires multiple departments to cooperate in its implementation.

The 227.8 Committee includes the Superior Court of San Joaquin, SO, District Attorney, Public Defender, County Bar Association, and Legal Referral Services. The 227.8 Committee meets monthly to discuss courthouse issues. A video teleconferencing system expedites communication and improves efficiency.

Various California counties have added video teleconferencing to their courtroom proceedings. The challenge to the 227.8 Committee is to resolve fiscal realities and issues relating to public safety.

With a new planned courthouse and jail expansion, video teleconferencing equipment and wiring design should be included. Incorporation in the original plans will circumvent the future retrofit of the system and save a great deal of time and money.

Another alternative is to build an arraignment facility at the French Camp site adjacent to the jail decreasing inmate's transportation to the courts. With some cases there is a true need for attorney-client communications to be private during an arraignment. Frequently, arraignments are routine when the offense is minor resulting in quick processing and

release without transportation. This arraignment facility would also alleviate a great deal of pressure at the courthouse custody holding facility.

Transportation is required on a daily basis to the North and South County courts for hearings and arraignments that require mandatory personal appearance. The reduction of inmates transported to and from arraignment court will probably not result in the relief of an entire transport vehicle or personnel needed to perform this duty. SO court service staff indicates that reduced ratio of inmates to officers in the courthouse will result from implementation of teleconferencing. This would increase courthouse safety and security for both inmates and staff, decreasing citizens' exposure to unforeseen incidents.

## **FINDINGS**

- F1. According to the 2007-2009 MOU between the Court and the County, building security access is the responsibility of the Court.
- F2. The process for implementation of previous video arraignment recommendations has not been addressed. ALL persons interviewed, regarding the video usage, concurred on the benefits of video teleconferencing.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The County limit access to the "old mail room" door to persons who demonstrate a need for entry.
- R2. The District Attorney, Public Defender, Sheriff, Probation Department, San Joaquin County Bar Association (Lawyer Referral Services) and County Administrator, in furtherance of efforts to install a teleconferencing system:
  - a. Prepare a preliminary cost estimate for acquisition and installation
  - b. Prepare a cost benefit analysis
  - c. Identify potential grant sources to implement the system

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the San Joaquin County Board of Supervisors within 90 days of publication of this report. District Attorney and Sheriff must respond within 60 days of publication of this report.

The Grand Jury recognizes the San Joaquin County Bar Association is not required to respond to this report, however its input would be appreciated.

## **STOCKTON POLICE DEPARTMENT**

### **OBSERVATIONS**

The Grand Jury met with SPD staff, toured the communications dispatch center and observed the street camera operations and its effectiveness.

### **INVESTIGATION**

The Grand Jury reviewed the Stockton City Manager's response to the 2008/09 Grand Jury report and chose to conduct a follow-up investigation. On November 18, 2009 the Grand Jury interviewed the new Stockton Police Chief at the SPD facility. The Grand Jury report consisted of no findings and five recommendations.

#### **Officer Positions** (See Appendix C, R1)

SPD's officer allotment is 441. However, due to budget cuts the current staffing of officers is down 73 positions. This places the current police officer force equal to the staffing of 17 years ago. When the mid-year budget is discussed, the Police Chief is hoping for no more cuts. The Chief expected by December 26, 2009, through attrition, early retirement and budget constraints a total of 140 positions left unfilled. Public safety is what the Chief considers his most important job, but has had to curtail various community services. Budget permitting, the Chief would like to re-institute patrols in parks and schools, returning community services and crime prevention.

#### **Hire Police Chief** (See Appendix C, R2)

Stockton's Police Chief promised to maintain his position for at least five years. The Chief's immediate goals are to deal with current staffing crisis and focus on the dispatch center relocation.

#### **Relocation of Dispatch** (See Appendix C, R3)

The dispatch center is now slated for the fourth floor of the Stewart/Eberhardt building. Bonds have been sold and the architects are working on the plans. Construction is to begin in 2010.

#### **Dispatch Contingency Plans** (See Appendix C, R4)

There is a back-up agreement with the SO. The effectiveness of this was illustrated when the SO communication dispatch center system went down due to a mechanical equipment failure. The SO dispatchers came to the SPD dispatch center and effectively maintained communications. Both departments are well served by this arrangement. The procedures were tested and both Departments adapted without loss of emergency services.

### **Street Camera Operations** (See Appendix C, R5)

The Grand Jury agrees with the explanation of their disagreement. At the present time, the street camera monitoring is operational daily in support of public safety and police functions. This center is staffed by retired police officers at a cost of less than 20% of what it would cost to operate the camera center with active duty officers. With the experience of retired officers, the Chief felt that the community would be better served. Future plans are to increase the surveillance to 24 hours per day.

### **FINDINGS**

- F1. The relocation of the 911-emergency dispatch Center is a work in progress. Construction has not started as of the writing of this report.

### **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. City of Stockton provide an estimated time for occupancy of the new facility.

### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court from the Stockton City Council within 90 days of publication of this report.



## **JUVENILE JUSTICE CENTER**

<http://www.sjgov.org/probation/JuvenileProb.aspx>

### **OBSERVATIONS**

The Grand Jury toured this facility and met with administrative staff. This meeting included an overview of operations and review of current issues. Grand Jury observations noted a clean well maintained structurally sound facility. Refer to website above for further background and information.

This facility recently has undergone a change in direction with a new Deputy Chief and Assistant Deputy Chief. Staff training has been enhanced to include:

- Cognitive Behavioral Therapy Modeling
- Evidence Based Programming

This training has provided a productive and positive atmosphere for staff and wards.

### **FINDINGS**

None

### **RECOMMENDATIONS**

None

### **RESPONSE REQUIRED**

None

## **DEWITT NELSON YOUTH CORRECTIONAL FACILITY**

1972 to 2008

**FACILITY CURRENTLY CLOSED**

November 6, 2009, a CDCR news release indicated that the CDCR is working collaboratively with the federal receiver's office to convert the former DeWitt Nelson Youth Correctional Facility (DeWitt) in Stockton to satisfy court mandates to provide medical and mental health facility for adult males.

See attached Link for further information.

[http://www.cdcr.ca.gov/News/2009\\_Press\\_Releases/Nov\\_06\\_DeWitt.html](http://www.cdcr.ca.gov/News/2009_Press_Releases/Nov_06_DeWitt.html)

At the time of this writing, discussions continue regarding a prison hospital at this site.

### **FINDINGS**

None

### **RECOMMENDATIONS**

None

### **RESPONSE REQUIRED**

None

## **N.A. CHADERJIAN YOUTH CORRECTIONAL FACILITY**

[http://www.cdcr.ca.gov/Juvenile\\_Justice/Facility\\_Locations/Youth\\_Correctional\\_Facilities/N.A.\\_Chaderjian.html](http://www.cdcr.ca.gov/Juvenile_Justice/Facility_Locations/Youth_Correctional_Facilities/N.A._Chaderjian.html)

### **OBSERVATIONS**

The Grand Jury had a short meeting with the administration of this facility. The tour was very impressive. Wards were given the opportunity to demonstrate programs that prepare them for re-entry into society. Staff indicated that these programs are helpful in reducing recidivism. Two of these programs, computer equipment repair and furniture repair have proven very successful.

### **FINDINGS**

None

### **RECOMMENDATIONS**

None

### **RESPONSE REQUIRED**

None

## **O.H. CLOSE YOUTH CORRECTIONAL FACILITY**

[http://www.cdcr.ca.gov/Juvenile\\_Justice/Facility\\_Locations/Youth\\_Correctional\\_Facilities/O.H.\\_Close.html](http://www.cdcr.ca.gov/Juvenile_Justice/Facility_Locations/Youth_Correctional_Facilities/O.H._Close.html)

### **OBSERVATIONS**

The Grand Jury met with the administration before and after a tour of the facility. The administration presented an overview of facility operations. Most impressive to the Grand Jury were that all wards were in class at the time of our tour. The Grand Jury was impressed with the cleanliness and maintenance of the facility.

### **FINDINGS**

None

### **RECOMMENDATIONS**

None

### **RESPONSE REQUIRED**

None

## APPENDIX A

### DEUEL VOCATIONAL INSTITUTION

California Department of Corrections and Rehabilitation responded to 2008/09 Grand Jury Report. This consisted of the following five findings and two recommendations:

2008/09 **Finding #1**: “The overcrowding problem that was addressed in the 2007/08 San Joaquin County report continues. The continued use of the gymnasium as a large, open dormitory and the use of former day rooms for inmate housing is evidence of the problem. The issue of overcrowding within the prison system is currently under review by the Federal Court as part of the Plata and Coleman litigation against the CDCR.”

CDCR Response to finding #1: “*The California Department of Corrections and Rehabilitation CDCR agrees with your finding. Due to continued overcrowding in all State prisons, the deactivation of all DVI nontraditional beds has not yet been possible. The Department has initiated several strategies in an attempt to alleviate overcrowding within CDCR. These plans have included the housing of California inmates at out-of-state facilities and the development of evidence based programs to help reduce recidivism. The CDCR hopes these programs will ultimately lead to a reduction of the inmate population, the deactivation of these nontraditional beds, and the program space they currently occupy returned to its intended purpose.*”

2008/09 **Finding #2**: “Maintenance issues, including peeling paint on the ceiling of the kitchen, were cited in the 2007/2008 San Joaquin County Grand Jury Report. The kitchen has been painted. Although the problem with the ceiling paint was remedied, the overall condition of the kitchen deserves further comment. Thousands of meals are prepared daily. It is difficult to maintain a sanitary and efficient kitchen operation while dealing with an aging and worn out kitchen facility.”

CDCR Response to finding #2: “*CDCR agrees with this finding. Refer to Recommendation 1.*”

2008/09 **FINDING #3**: “The recent implementation of the State Offender Management Systems (SOMS) centralized Inmate Trust Accounts. Inmates no longer have to wait for their trust accounts to be transferred when the inmate moves from the sending institution to the receiving institution. The implementation of the SOMS should significantly reduce the many questions to staff and inmate appeals regarding inmate trust accounts.”

CDCR Response to finding #3: “*CDCR agrees with this finding. Please note: in response to findings on page 2 of the report, item 3, the application mentioned is incorrect. The correct IT application implemented to centralize Inmate Trust*

*Accounts is the Trust Restitution Accounting Canteen System (TRACS) and not the Strategic Offender Management System (SOMS). ”*

**2008/09 FINDING #4:** “Two DVI inmate escapes within the last year can be traced directly to the failure of staff and/or inadequate release procedures. In the first case, an inmate was released on parole earlier than he should have been, due to one or more errors in calculating his release date. In the second case, two inmates who were related conspired so that one inmate could successfully represent himself as the other. This conspiracy resulted in a mistaken-identity release.”

CDCR Response to finding #4: “The Department agrees with this finding with some clarification of the facts concerning two incidents.”

- “On Monday, September 08, 2008, DVI Reception Center Records staff discovered that Inmate “A” was released early on parole on August 28, 2008. The staff that audited and reviewed Inmate “A’s” case for parole should have identified that Inmate “A” was a defendant in a criminal case that may have affected his parole date. However, it was also discovered that some desk procedures and office practices were inadequate, which contributed to staff mistakes. Corrective action was taken to amend desk and office procedures, and training was provided to the involved staff.”
- “On Friday, October 31, 2008, it was discovered Inmate “B” was inappropriately released from the custody of DVI. Inmate “B” was processed out of DVI as a normal parole release under the identity of another inmate. Through a subsequent investigation, it was discovered Inmate “B” did not conspire nor was he related to the individual who was supposed to have paroled on that day. The investigation also revealed our releasing policies and procedures were not properly followed by staff. DVI instituted corrective action by amending its release procedures and by providing training for the staff in this area.”

**2008/09 FINDING #5:** “Although DVI has improved its procedure for reviewing files and interviewing inmates, it is impossible to ensure that available staff will be personally acquainted with inmates to the extent that every inmate’s identity will be known to the releasing staff. Electronic fingerprint scan hardware and software is available for scanning state and/or local databases to positively identify inmates prior to release.”

CDCR Response to finding #5: “*CDCR agrees with this finding. Explanation in Recommendation Number 2.*”

**2008/09 Recommendation #1:** “DVI develop a capital outlay budget proposal to remodel/rebuild the main kitchen.”

CDCR response: “*CDCR agrees with Finding #2 and with Recommendation #1 regarding the deficiencies identified in Finding #2. As such, CDCR developed a capital outlay budget proposal for the fiscal year 2009/10 that was approved in the*

*2009/10 Governor's Budget, which was adopted July 28, 2009. CDCR identified funding remaining in the capital costs associated with this project. CDCR plans to submit the project for Public Works Board (PWB) approval at its October hearing. This project is currently undergoing an updated review by the State Fire Marshall (SFM) to ensure that plans are adequate and can be approved to proceed. Upon SFM review, and upon approval by the PWB, CDCR's Inmate Ward Labor program plans to complete the project within six months of approval and funding."*

**2008/09 Recommendation #2:** "DVI obtain the necessary hardware and software to do positive identification of inmates via fingerprint scan or other positive biometric identifiers when releasing inmates."

CDCR Response to recommendation #2: "*CDCR agrees with this recommendation, however CDCR's current technology does not have the capability to retrieve real*

*time identification from the Department of Justice (DOJ). CDCR is looking into new technologies that may give CDCR the ability to receive real time identification from DOJ. If that technology is available and information can be received from DOJ in a timely fashion, CDCR will need to seek funding and approval for the situation."*

## APPENDIX B

### SAN JOAQUIN COUNTY SHERIFF'S OFFICE

Office of Sheriff-Coroner responded to the 2008/09 Grand Jury report. This consisted of the following two findings and three recommendations:

2008/09 **Finding #1**: "The jail's main kitchen facility continues to be in desperate need of replacement. The California Corrections Standard Authority reported on the need to rebuild the kitchen facility."

Sheriff's response to Finding #1 : *"The Respondent agrees with the finding."*

2008/09 **Recommendation #3**: "Adopt viable contingency plans to maintain the current daily cost for prisoner meals and minimum jail standards in the event that it becomes necessary to close the main kitchen due to mechanical/health problems."

Sheriffs Response to Recommendation #3: *"The Recommendation has not yet been implemented; however, the timeframe for its initiation will be provided. The Sheriff agrees with the finding that the Jail Kitchen is in desperate need of replacement. The County Administrator is also in agreement and is studying the viability of a 'Super Kitchen' to serve the needs of multiple County and State agencies for meal service in San Joaquin County.*

*It is anticipated the County Administrator will be able to authorize and build the 'Super Kitchen' within the time frame to control meal expenses, not only for the Sheriff's Office, but also for at least five other County Departments currently providing meals to customers.*

*In the interim, the Sheriff has identified a solution to temporarily mitigate the use of the kitchen: utilize off-site cook-chill technology to prepare inmate meals that will then be reheated (re-thermed) in the housing units. This process will eliminate use of the kitchen for all food preparation and only require its use for re-heating of Honor Farm meals and cleaning of food trays after meal service.*

*To that end, County Purchasing issued a Request for Proposal (RFP) in November 2008 to solicit food service vendors to provide meals prepared off site, deliver them to the facility, and reheat the food trays in the housing units. The final contract is to be awarded in July 2009; and after modification of electrical infrastructure and installation of required equipment, cook-chill service should start in September 2009. Once cook-chill initiated, the Honor Farm Kitchen will no longer be used for food preparation.*



*The cook-chill, re-therm process is an accepted method of food service approved by the Corrections Standards Authority, Title 15, Minimum Jail Standards. The off-site preparation and delivery of food will not allow the cost per meal to remain consistent with present expenses for food prepared on-site. It does, however, provide a built-in contingency plan as multiple days of food can be prepared in advance and stored for later service. The RFP allows for a 3-year contract with two one-year extensions to the successful bidder."*

**2008/09 Finding #2:** "Recent events at the San Joaquin County courthouse, including the stabbing of a Superior Court Judge and multiple prisoner escapes requires vigorous and impartial investigations."

Sheriff's Response to Finding #2: *"The Respondent agrees with the Finding"*

**2008/09 Recommendation: #2:** "The Grand Jury be provided with copies of the completed investigative reports relating to Finding #2."

Sheriffs Response to Recommendation #2: *"The Recommendation has not yet been implemented, but will be with a time frame for implementation."*

*The Grand Jury can and will be provided, upon request, with copies of any escape investigation materials within the control of San Joaquin County Sheriff's Office relative to escapes from the courthouse facility in Stockton. It is the practice of the San Joaquin County Sheriff's Office to provide a vigorous and impartial investigation of any incident involving the escape of an in-custody defendant. These documented reports are thorough so that proper administrative decisions can be made to improve security and lessen the potential for future similar incidents as well as provide evidence for prosecution of the escape.*

*The unfortunate assault on a Superior Court Judge and the subsequent killing of the suspect resulted in invoking the San Joaquin County Protocol Investigation procedure, which is administered by the District Attorney. Use of a multi-agency protocol investigation provides exactly what the Grand Jury requests; a vigorous and impartial investigation that begins immediately and is concluded in a timely manner after all investigative leads and questions have been asked and answered. Pursuant to provision on page 21 of the October 2008 version of the Officer-Involved Critical Incident Protocol Manual, the report can be made available to the Grand Jury. Section VI reads:*

#### *VI. Public Access to Reports*

##### *A. Government and Reviewing Bodies*

*Investigation reports prepared by the Task Force and the results of the Investigation may, of course, be disclosed to the governing body or civilian reviewing body of Task Force Member Agencies. However, to preserve the*

*integrity of the investigation and to preserve the fair trial rights of potential criminal defendants, Task Force reports will be provided to such bodies only after the District Attorney's Office has ruled that no charges will be filed or after the disposition of any criminal prosecution filed as a result of the investigation.*

*At present the investigation has yet to be reviewed by the District Attorney's Office. When the District Attorney has completed his review, a copy of the report can be made available to the Grand Jury through request to the District Attorney, which will include the findings of the District Attorney."*

**2008/09 Recommendation #1:** "The Sheriff, District Attorney, Public Defender and the Court re-visit the feasibility of utilizing video arraignments."

*Sheriffs Response to recommendation #1 "The Sheriff's Office would like to see the recommendation be implemented; however, it does not appear that this process can be implemented any time soon. There have been ongoing discussions between the Sheriff, The District Attorney, The Public Defender, the Superior Court of San Joaquin, the County Bar Association, and Legal Referral Services with regard to implementation of video arraignment, with the last discussion occurring on June 3, 2009. Unfortunately, video arraignments are not at the sole discretion of the Sheriff, and these discussions have met with serious opposition by the Public Defender, Legal Referral Services, The County Bar Association, as well as some concern on the part of the District Attorney.*

*As noted by the Grand Jury, technology such as video arraignment has proven to be valuable tool to help conserve law enforcement, court, and corrections systems resources. With video arraignment systems, the offender may appear before a judge for arraignment without ever leaving jail. This reduces transportation and security costs, keeps the defendant secure at the jail, and reduces the possibility of escape, all the while increasing the safety of court personnel and visitors to the courthouse.*

*The recommendation as to feasibility of utilizing video arraignments is under purview of the United Courts and the Administrative Office of the Courts (AOC) for funding and operation. Implementation will be accomplished at their funding and direction as the process is a function of the Court and not a function of the Sheriff's Court Security. The Sheriff will work diligently with the AOC to install furnished equipment in the housing units at the Jail to provide the link between the Jail and the Courts for video arraignment.*

*You, as well as Assistant Presiding Judge Robin Appel, have expressed interest in the video arraignment concept for criminal defendants. This philosophy is in direct line with the strategic goals and policy revisions of the AOC to encourage and sustain innovation in the use of new information-sharing technologies necessary to meet the needs of the judicial branch and public.*

*The Sheriff's Office is working with Judge Appel and the AOC who offered to supply equipment and implement video proceedings in Family Court Hearings. The appearance of in-custody persons on family law issues is difficult as that courthouse has no inmate holding facility. Use of video arraignment in Family Court tests the system for all courts in San Joaquin County, and will prove or disprove its viability.*

*Prior to implementation, further analysis is required to assuage the Public Defenders reluctance to participate due to perceived confidentiality issues (attorney/client privilege). The law also allows the defendant to choose whether or not to participate in video arraignment. The Sheriff has no desire to abridge the rights of the defendants. The Sheriff's Office goal is the same as the AOC: to utilize technology where appropriate to increase efficiencies and lower costs of government services.*

*As those involved get used to the new technology of video conferencing for arraignments, there will be more uses for the resource. In addition to Court Arraignments, there will be more and more uses for the resource. In addition to court arraignments, it can be used for attorney/client conferences, by probation officers for pre-sentence investigations prior to court sentencing, video conference meetings between courts and sheriff's staff. Each of these concepts will increase efficiency, lower government costs for services, and provide a higher level of service to citizens."*

## APPENDIX C

### STOCKTON POLICE DEPARTMENT

City of Stockton responded to the 2008/09 Grand Jury report. This consisted of the following five recommendations:

**2008/09 Recommendation #1:** “The Grand Jury understands the City of Stockton’s projected budget deficit. However, when funds become available, a high priority should be given to the restoration of police officer positions.”

City Managers Response to recommendation #1: *“Implemented. Funding is set by the Mayor and City Council members. Public safety is their highest priority, as reflected in their stated goals and core values.”*

**2008/09 Recommendation #2:** “Develop a committee of elected officials and community leaders to participate with the City Manager and facilitate the recruitment and retention of a new Police Chief.”

City Managers Response to recommendation #2: *“Implemented. The City recruited for and interviewed a number of candidates for the Police Chief position. Blair Ulring was officially appointed as Police Chief on August 5, 2009”*

**2008/09 Recommendation #3:** “Develop a comprehensive plan for relocating the 9-1-1/Dispatch Center to a more suitable site.”

City Managers Response to recommendation #3: *“Implementation in progress. The recommendation to relocate the Police Departments Emergency 9-1-1/Telecommunications Center is a sound one. Steps have been taken in recent years to complete the Emergency Telecommunications 9-1-1/Dispatch Center move from its existing location in the basement of the Main Police Facility on Market Street to the fourth floor of the Stewart/Eberhardt Building on Weber Ave. The Stewart/Eberhardt Building is designed to meet essential services building standards; specifically, to house the 9-1-1- Telecommunications Center.”*

*“The City of Stockton is presently contracted with the architectural firm of Leach Mounce for the design, architectural, and engineering work for the project. Following 18 months of design and pre-design meetings with City staff, 100% submittals of engineering drawing will be completed in August 2009. Providing sufficient funding becomes available through anticipated bond sales, construction can begin following the award of a construction contract. Full occupancy and operation can occur in as little as 24 months.”*

2008/09 **Recommendation #4:** "Review existing emergency contingency plans for the 911/Dispatch Center and revise them as necessary."

City Managers Response to recommendation #4: *"Implemented. The Police Department Telecommunications staff regularly reviews contingency plans in connection with training and testing of communications and computer equipment at the Main Dispatch Center and three back-up sites. This is done in coordination with personnel from the Stockton Fire Department and San Joaquin County Sheriffs Department. Additionally, the Mobile Command Post also functions as a portable site which can be relocated quickly and serve as a dispatch center during emergency operations. In the near future, when the Police Telecommunications E911 Center is moved to the fourth floor of the Stewart/Eberhardt Building, a small back-up center will established on the first or second floor of the Main Police facility."*

2008/09 **Recommendation #5:** "Re-institute the Street Camera Monitoring, previously manned by retired officers by utilizing the Volunteers in Police Service (VIPS)."

City Managers Response to recommendation #5: *"Not Implemented. The Stockton Police Department appreciates the suggestion offered by the Grand Jury, but respectfully disagrees with the recommendation for the following reasons."*

*Street camera operations have continued operating despite reduced hours necessitated by significant mid-year budget cuts. Use of retired police officers to view cameras, recognize potential criminal activity, and assist with actual crimes in progress, has proven to be the most successful method of operation. As additional funding becomes available, the Police Department plans to increase the hours of operation using retired police officers."*

*"Retired Police Officers are best suited for this assignment as they are trained observers who can best recognize criminal activity. Retired Police Officers are the most familiar with the entire City of Stockton and have had years of training in Police tactical responses to calls for police services. Police veterans also have proven skills using radios and computer systems."*

*"Use of volunteers and paid security agents has proven ineffective in the past, primarily due to a lack of attention to detail, poor use of the police radio, and poor attendance."*

## **Section V**

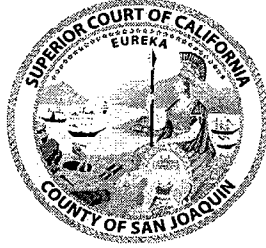
Review and Investigation of Responses to the 2008/09 Final Grand Jury Report (Case No. 0909) .....	103
Information and Technology Security: San Joaquin County and Cities (Case No. 0909A) .....	105
Stockton-San Joaquin County Library (Case No. 0909B) .....	110
Central Parking District (Case No. 0909C) .....	113
San Joaquin Delta Community College (Case No. 0909F) .....	115
Student Truancy (Case No. 0909G) .....	117
Stockton Unified School District (Case No. 0909H) ....	119
San Joaquin Regional Transit District (Case No. 0909I) .....	123
San Joaquin County Human Resources Department (Case No. 0909J) .....	126
City of Stockton Neighborhood Services/Code Enforcement (Case No. 0909K) .....	128

## **Findings, Recommendations and Responses to 2008/09 Grand Jury Report**

Appendix A: Information and Technology Security: San Joaquin County and Cities .....	131
Appendix B: Stockton-San Joaquin County Library .....	144
Appendix C: Central Parking District .....	150
Appendix D: San Joaquin Delta Community College ....	154
Appendix E: Student Truancy .....	156
Appendix F: Stockton Unified School District .....	162
Appendix G: San Joaquin Regional Transit District .....	165
Appendix H: San Joaquin County Human Resources Department .....	169
Appendix I: City of Stockton Neighborhood Services/Code Enforcement .....	173

# *Follow-Up*

## **San Joaquin County Grand Jury**



### **REVIEW AND INVESTIGATION OF RESPONSES to the 2008/09 FINAL GRAND JURY REPORT**

2009/10 San Joaquin County Grand Jury Case No. 0909

#### **REASON FOR INVESTIGATIONS**

The 2008/09 Grand Jury issued a final report in June 2009. The final report compiled nine individual and five follow-up reports on thirty-two government agencies, departments, school districts and special districts throughout San Joaquin County, all of which were released and made public prior to its issuance. Pursuant to California Penal Code Section 933(c), an elected officer or department head is required to respond to particular findings and recommendations within sixty days of the Grand Jury's report. All others are required to respond within ninety days. The responses must be addressed to the Presiding Judge of the San Joaquin County Superior Court. Responses were received from all governmental agencies and officials.

The 2009/10 Grand Jury reviewed the findings, recommendations and responses to the 2008/09 final report. The responses are contained in the appendix of this report. Some investigations led this Grand Jury to review reports, responses and investigations as far back as 2003/04.

#### **BACKGROUND**

For every recommendation in a grand jury report, State law requires at least one organization, agency or official to submit a written response to the Presiding Judge. The grand jury must assure each response was submitted within the timeframe and is compliant with the requirements of the California Penal Code. Each finding in a grand jury report is required to be substantiated by written documents and/or oral testimony. Each recommendation must be supported by at least one finding. A recommendation generally suggests a shortcoming and calls for some change. Civil grand juries are charged with the mission of acting as the "Watch Dog" of government for the citizens of the County.

The 2009/10 Grand Jury would like to thank the various government agencies, departments and officials for their timely and updated responses. It is important for the sitting grand jury to continue and validate the work of previous grand juries. It is also important for government officials and agencies to understand how they, together with the Grand Jury, can bring about change for the betterment of the citizens of San Joaquin County.

## **METHOD OF INVESTIGATION**

When reviewing and evaluating the responses to the 2008/09 Grand Jury findings and recommendations, the 2009/10 Grand Jury used the following criteria to ensure compliance with the requirements of the Penal Code Section 933.05(c):

- Response was received within the statutory timeframe.
- Respondent indicated agreement with the finding, or if there was disagreement or dispute, provided an explanation of the reason.
- If a recommendation was implemented, a summary of the implementation action was provided, along with evidentiary documentation.
- If a recommendation had not been implemented, but was in the process of being implemented, the respondent provided a timeframe for implementation.
- If a recommendation required further study or analysis, the respondent provided an explanation of what actions were being taken and a timeframe for the study or analysis to be completed.
- If the respondent indicated that the recommendation could not be implemented at that time because of circumstances beyond their control.

If a respondent fails to satisfy any of the above criteria, the succeeding grand jury can choose to re-investigate, collect further information, re-issue a report, or cease further investigation. The 2009/10 Grand Jury requested updated responses from 21 government agencies and departments. After updated information was reviewed and interviews conducted, the Grand Jury chose to write reports on 11 of the previous year's investigations.

Follow-up Case No. 0909D and investigations involving law enforcement agencies in San Joaquin County are reported in the Law and Justice section.

After reviewing the Housing Authority of San Joaquin County response, a follow-up investigation was initiated as Case No. 0909E. After new complaints were received by the Grand Jury, a new investigation was opened. Information relevant to previous Grand Jury investigations and reports are contained in San Joaquin County Housing Authority 2009/10 San Joaquin County Grand Jury Case No. 0509.



## **INFORMATION AND TECHNOLOGY SECURITY:**

### **SAN JOAQUIN COUNTY AND CITIES**

**2009/10 San Joaquin County Grand Jury Case No. 0909A**

#### **FOLLOW-UP FINAL REPORT**

#### **REASON FOR INVESTIGATION**

The 2008/09 Grand Jury had concerns about the current status of information systems used by cities and county government. Case No. 03-08 demonstrated that San Joaquin County and the seven incorporated cities were exercising due diligence in protecting information resources and making appropriate plans for disaster and business continuity.

#### **BACKGROUND**

As defined in the United States Code, Information Security means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction<sup>1</sup>. Today, even the smallest governmental entity, including small and large cities and the numerous county departments, accumulates a large quantity of sensitive information about its operations and citizens. Much of this information is collected, stored in and/or transmitted across networks to other computers electronically. Each of these entities has dedicated staff that operates and maintains these systems. Computer security is an ever increasing component of its responsibilities.

The 2008/09 investigation was a layman's inquiry into the current state of information technology security (ITS) within San Joaquin County's governmental bodies. Therefore, it is important that this investigation not be construed as a formal security audit.

The Grand Jury's expectations were that each of the information technology (IT) units investigated would have included the following as components of a comprehensive security plan:

- **Security policy**
- **Physical and environmental security**
- **Communications and operations management**
- **Access control**
- **Disaster planning**
- **Business continuity**

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<sup>1</sup> United States Code, Title 44, Chapter 35, Subchapter III, Section 3542

- **Validation and testing**

Three departmental offices of San Joaquin County and six cities did not meet these expectations.

## **METHOD OF INVESTIGATION**

Investigations were conducted, testimony was received and applicable documentation was reviewed from all County departments and cities requiring further follow-up.

## **DISCUSSION**

The extent to which each IT unit was able to meet the 2008/09 Grand Jury's expectations varied significantly. The largest units seemed to be the best prepared; however, some smaller cities included sophisticated security measures and clear goals for measures yet to be implemented. At the time of the investigation, all investigated units provided at least the bare minimum of security for IT assets:

- Routine backup of all servers
- Installed and managed anti-virus software
- Physical security for data center
- Access control using account login & passwords

The 2009/10 Grand Jury review of the responses to the initial investigation indicated that many of the 2008/09 recommendations were implemented. Recommendations that required policy or procedural changes were most often implemented. Significant among those were recommendations relating to written disaster preparedness, business recovery plans, the lack of ITS awareness and staff training. Due to the downturn in the economy and severe governmental budget cuts, those recommendations requiring capital expenditures were either not implemented or were postponed. Only those county and city IT departments that did not meet the expectations of the previous Grand Jury were investigated and included in this report.

San Joaquin County has a highly fractured IT infrastructure with 16 separate units serving various county departments, in addition to the Information Systems Division (ISD). A number of the departments made compelling arguments for maintaining departmental development and support services. Some departments are bound by state and federal mandates and regulations to maintain isolated IT systems.

The 2008/09 Grand Jury found that these cities and county departments did not meet expectations for ITS.

### **County of San Joaquin**

- a. **Agricultural Commissioner's Office (ACO)** (See Appendix A, F1 and R1)

An outdated server operating system needed to be updated, a disaster preparedness and recovery plan was under review, and ITS training for personnel had not begun.

b. **District Attorney's Office (DA)** (See Appendix A, F3 and R3)

A documented disaster preparedness and recovery plan was not provided.

c. **Public Defender's Office (PDO)** (See Appendix A, F2 and R2)

Servers were out-dated, employees had not completed ITS training, and critical or confidential information was allowed to be stored on local work stations and on unencrypted mobile devices.

d. **Sheriff-Coroner's Office (SO)** (Appendix A, F21, R21)

The server operating system needed updating.

**City of Stockton:** (See Appendix A, F4, F5 and R4, R5)

The IT department was understaffed and lacked an IT Director. The City did not have a documented disaster recovery or business continuity plan.

**City of Lodi:** (See Appendix A, F6-9 and R6-8)

Independent IT support of the Finance Department was not answerable to central IT policies, lacked internal controls and violated sound security policy, as did web email accounts.

**City of Lathrop:** (See Appendix A, F9, F10)

The City had plans to address hardware redundancy on critical systems as their budget allowed. Plans for disaster recovery and business continuity were in development.

**City of Tracy:** (See Appendix A, F11, F12 and R11(a), R11(b), R12)

The City lacked a written security policy and employees were allowed unrestricted access to web email accounts and the internet.

**City of Manteca:** (See Appendix A, F13-16 and R13-16)

Security policies were limited and addressed only email and software use; a few laptops did not have hard drive encryption. The City lacked a documented disaster recovery plan. Emergency backup power was not available for the entire data center.

**City of Ripon:** (See Appendix A, F17-20 and R17-20)

The City lacked written ITS policies and a disaster plan. No systematic method existed to apply critical software patches when available. The secure storage of backup tapes was inadequate.

## FINDINGS

- F1. DA: Due to office relocation, the DA was unable to complete the disaster preparedness and recovery plan. The DA projected it will be complete by July 2010.
- F2. PDO: Relocated its operations to a new facility. Funding for updating the primary and back-up servers has not been approved.
- F3. PDO: Completed IT training for 70% of employees and 100% of new hires. All employees will receive mandatory IT training every two years.
- F4. Lodi: Applied for American Recovery and Reinvestment Act funds to relocate the data center and back-up generator to a more secure location. The funding was denied.
- F5. SO: The server in question was no longer running critical or essential applications.
- F6. ACO successfully implemented the recommendations of the 2008/09 Grand Jury.
- F7. PDO: IT department encrypted the hard drive on all laptops.
- F8. PDO: Access to confidential data is limited to authorized personnel.
- F9. Stockton: The IT department was combined with the Administrative Services Department and is under the leadership of the Administrative Services Director/Chief Financial Officer.
- F10. Stockton: A documented Disaster Recovery and Business Continuity Plan was in place.
- F11. Lodi: IT implemented a policy which restricts web access to business related purposes. All employees are aware of this policy. The city has web filtering software that significantly minimizes risk.
- F12. Lodi: IT personnel in the Internal Services Department answer to the Assistant City Manager.
- F13. Lathrop: Hardware redundancy has been corrected.
- F14. Lathrop: IT has a comprehensive written Disaster Recovery Plan.
- F15. Manteca: IT has a comprehensive written Disaster Recovery Plan.
- F16. Manteca: IT department encrypted the hard drive on all laptops.
- F17. Manteca: IT anticipates the completion of emergency power connection to the data center by July 1, 2010.

- F18. Tracy: IT has a comprehensive security policy.
- F19. Tracy: Provides a signature document ensuring all employees are informed of IT security policies and consequences of violation.
- F20. Tracy: IT policies prohibit unrestricted access to the internet. Only incidental use during non-working hours is allowed.
- F21. Ripon: All requirements were in place prior to issuance of the 2008/09 Grand Jury Report except the written employee notification of the ITS Policy. On October 30, 2009 they implemented the necessary notification.

## **RECOMMENDATIONS**

The Grand Jury recommends that the:

- R1. DA complete the disaster preparedness and recovery plan.
- R2. PDO update its primary and back-up servers.
- R3. PDO complete IT training.
- R4. Lodi continue to explore funding options to relocate the data center and back-up generator to a more secure location.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from San Joaquin County Board of Supervisors, Lathrop, Lodi, Manteca, Ripon and Stockton City Councils to all findings and recommendations, if applicable, contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

California Penal Code sections 933 and 933.05 require that specific responses from San Joaquin County District Attorney and San Joaquin County Sheriff to findings and recommendations, if applicable, contained in this report be submitted to the Presiding Judge of the Superior Court within 60 days of publication of this report.

## **STOCKTON-SAN JOAQUIN COUNTY LIBRARY**

**2009/10 San Joaquin County Grand Jury Case No. 0909B**

### **FOLLOW-UP FINAL REPORT**

#### **REASON FOR INVESTIGATION**

The 2008/09 Grand Jury received complaints about the general operation and management of the Library System. The complaints were signed by current and former employees, as well as members of the public and library support groups. The complaints contained a variety of allegations concerning misuse of public funds, customer service, personnel issues and mismanagement. An investigation was opened, Case No. 05-08. The 2009/10 Grand Jury chose to conduct a follow-up investigation to see if the recommendations of the 2008/09 Grand Jury had been acted upon.

#### **BACKGROUND**

The 2008/09 Grand Jury found mismanagement, ineffective leadership, questionable use of public funds and low staff morale within the Stockton-San Joaquin County Library system. They found supervision by the Stockton City Manager's Office had been inadequate and library administrators had alienated themselves from local library support groups. During the Grand Jury investigation, the City Manager made significant administrative changes. In February 2009, the Director of Library Services was laid off. In March, an administrative reorganization placed the Library System in the newly-created Community Services Department. This reorganization changed the supervision of the Library Director from a Deputy City Manager to the Director of Community Services. The Library system continues to suffer due to loss of funding.

#### **METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation was reviewed.

#### **DISCUSSION**

The Grand Jury reviewed the Stockton-San Joaquin County Library response to the 2008/09 Grand Jury Report and reported on five findings and eight recommendations.

Since the 2008/09 Grand Jury report, many changes have taken place at the Stockton-San Joaquin County Library. The Library was reorganized and in March a new Deputy Director-City Librarian was hired. The Library complied with many of the recommendations of the previous Grand Jury. Recommendations that were not implemented were primarily due to declining revenue.

**Purchase of New Books** (See Appendix B, R1)

\$750,000 was allocated to the Library for the purchase of new books in 2009, which will be reduced this year. Ten percent of the Library's appropriated money will be used for the book collection. The Librarian's goal is to increase the percentage for the book collection, through library support groups, endowments and partnerships. The Director of Community Services and the Librarian are working with local congressional staff on grants that can help maintain book collections and services. The Library applied for a \$500,000 grant through the Labor, Health, Human Services and Education Bill.

**Amnesty Week** (See Appendix B, F2 and R2(a))

The Library will not institute an annual amnesty week which allows overdue books and materials to be returned to the Library without fees or fines. Nationally, this is not recommended as library customers tend to hold back on fine payment in anticipation fees being waived. Uncollected fine money reduces library revenue.

**Zero Tolerance for Late Books** (See Appendix B, F2 and R2(b))

The Library recommends the City Council allow library users until July 1, 2010, to settle their late book fine accounts or lose library privileges and fees and fines are increased. The Library is currently investigating the use of credit card swipe machines for collecting fees and book self-check out.

**Library Advisory Commission** (See Appendix B, F3 and R3(c))

The San Joaquin County Board of Supervisors and the Stockton City Council mutually establish and appoint citizens to a Library Advisory Commission. The Library and Literacy Foundation for San Joaquin and six Friends of the Library groups make recommendations to governing bodies concerning Library matters. Operation of the Library has improved under the direction of the Community Services Department Director and the newly hired City Librarian.

**Withholding Books on Shelves for Walk-In Customers** (See Appendix B, F4 and R4)

Withholding new books on library shelves for walk-in customers is not generally practiced. More equal access to books exists when customers can request and reserve books, either by walk-in, phone or online. The Library will continue this practice.

**Internal Audit Controls**

The recommendation to establish internal audit controls has been implemented.

**Historical Special Collection Materials** (See Appendix B, F5 and R5)

Security doors and locks have been added in the Special Collection area. The goal of original cataloguing of Special Collection materials is a work in progress. The task of original cataloguing is time consuming; detail oriented and requires staffing for which the current budget does not allow. Library management must evaluate what is most beneficial and equitable when allocating funds.

### **Performance Evaluation**

The 2009/10 Grand Jury interviewed members of the City Council and the Community Services Department Director and found that annual performance evaluations had not been conducted.

### **FINDINGS**

- F1. A zero-tolerance policy for fines and fees is under review.
- F2. The historical special-collection materials were not inventoried.
- F3. Annual performance evaluations of the Librarian and Community Service Director have not been conducted.
- F4. The Library has not revised current policy that would allow a portion of newly released books to be placed on shelves so that walk-in customers may check out.
- F5. A Library Advisory Commission was not established. At the conclusion of this investigation, the need for a Commission is not necessary.

### **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The Library update the fines and fees policy and refer to the City Council for approval and implementation.
- R2. The Library complete the inventory of the special-collection.
- R3. Annual performance evaluation shall be completed.

### **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from Stockton City Council to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.



## **CENTRAL PARKING DISTRICT**

**2009/10 San Joaquin County Grand Jury Case No 0909C**

### **FOLLOW-UP FINAL REPORT**

#### **REASON FOR INVESTIGATION**

The 2007/08 Grand Jury received complaints regarding the City of Stockton Central Parking District (CPD). The 2008/09 Grand Jury chose to follow-up on prior year Case No. 04-07. Jurors wanted to determine if CPD corrected the problems cited in the 2007/08 Grand Jury Report. The 2008/09 Grand Jury received one new complaint alleging one parking structure had a lengthy waiting list for monthly parking while several parking floors continually appeared empty.

#### **BACKGROUND**

CPD manages over 4000 parking spaces included in fifteen parking lots, five city-owned parking garages and one county-owned parking garage in downtown Stockton. Approximately 3200 spaces have been set aside for parking patrons who choose to purchase monthly parking passes. Applications for monthly parking are made to the CPD office by one of several methods. Although some of the parking spaces are available immediately, they are not necessarily in the most desirable locations near work sites. Applicants for the more desirable parking spaces must be placed on a waiting list.

CPD, managed by the Stockton Economic Development Department (SEDD), has one Supervisor, one Supervising Parking Attendant and an Office Assistant who have the responsibility of managing the operation and the distribution of parking spaces. There are approximately 45 parking attendants at the various garages and lots. The parking attendants are part-time employees.

#### **METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation reviewed.

#### **DISCUSSION**

CPD made significant progress toward implementation of the recommendations of the 2008/09 Grand Jury. An interim director of the SEDD was hired and made needed changes at CPD. Most of the changes recommended in last year's report have been enacted or have scheduled dates for implementation.

#### **Backup of Critical Data** (See Appendix C, F1 and R2, R4)

The 2007/08 Grand Jury recommended that CPD develop a back-up system for the computer that tracks the unattended automated garages. The 2008/09 Grand Jury found

that these recommendations had been partially implemented. Management suggested alternate solutions to address the back-up issues.

**Updated Financial Software** (See Appendix C, F2 and R3, R5)

At the beginning of the 2009/10 Grand Jury follow-up investigation, the CPD reported it might take two years to purchase and implement updated financial software that could accept on-line payments. An EFT software vendor was contracted to perform this service prior to the close of 2010 fiscal year.

**Parking Space Evaluation** (See Appendix C, F3 and R1, R6)

The loss of tenants at the Washington Mutual building resulted in underutilized parking. CPD Board of Directors and the City determined there was no need to conduct a parking study.

**FINDINGS**

- F1. There is nightly back-up of critical CPD data to the City of Stockton server.
- F2. CPD projects on-line payments by close of 2010 fiscal year.
- F3. A new SEDD Interim Director has brought positive change to the CPD.

**RECOMMENDATIONS**

There are no recommendations.

**RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from Stockton City Council to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

**SAN JOAQUIN DELTA COMMUNITY COLLEGE**  
**2009/10 San Joaquin County Grand Jury Case No 0909F**

**FOLLOW-UP FINAL REPORT**

**REASON FOR INVESTIGATION**

The 2006/07 and 2007/08 Grand Juries received complaints stating the Board of Trustees violated the Brown Act and Government Code Section 54963 (disclosure of closed session and confidential information). The 2009/10 Grand Jury chose to review 2008/09 Follow-up Case No. 01-08B. Jurors wanted to determine if the current Board of Trustees corrected the problems of the past and were acting with an appropriate sense of ethics and responsibility to the students and community.

**BACKGROUND**

The 2009/10 Grand Jury received a response from the Board of Trustees of Delta College. The response was reviewed and determined to meet statutory requirements. The response indicated that the recommendations of the 2008/09 Grand Jury had been implemented. The 2008/09 Grand Jury recommended the Board of Trustees comply with the Brown Act through further training and clarification to ensure understanding, compliance and enforcement and to prevent further violations. Brown Act violations cited by the previous Grand Jury concerned the posting of Board meeting agendas on the college website 72 hours in advance of the meeting and in a location accessible to the public 24 hours a day. The 2009/10 Grand Jury chose to follow-up on the 2008/09 investigation to verify compliance.

**METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation reviewed.

**DISCUSSION**

**Meeting Agendas** (See Appendix D)

Meeting agendas were being posted 72-hours in advance of the meeting, but not in a place that was accessible to the public 24-hours a day. The website erroneously stated that "agendas will be posted 24-hours prior to each meeting." Brown Act training was given to Board members and has been verified.

The Grand Jury's investigation exposed that at least four trustees were solicited to participate in serial meetings to discuss college business.

## **FINDINGS**

- F1. Mandatory Brown Act training was provided to all Trustees. In spite of the training, one or more trustees violated the Act. Refer to 2009/10 Grand Jury Case 1409.
- F2. Board meeting agendas are now posted on a new bulletin board at Atherton Auditorium, allowing 24-hour access to the public.
- F3. The web site has been corrected to reflect the Brown Act mandated pre-meeting time frame for posting agendas.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The President of the Board ensures all Trustees participate and complete, at least quarterly, mandatory training clarifying the legalities and intent of the Brown Act.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from San Joaquin Delta Community College Board of Trustees to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

## **STUDENT TRUANCY**

**2009/10 San Joaquin County Grand Jury Case No 0909G**

### **FOLLOW-UP FINAL REPORT**

#### **REASON FOR INVESTIGATION**

The 2008/09 Grand Jury became aware of inconsistent truancy reports (Consolidated Application) that were submitted to the California Department of Education (CDE) and the State Controller's Office (SCO) by Lodi, Tracy, and Stockton Unified School Districts during the 2007/08 fiscal year. The 2008/09 Grand Jury sent letters to the three school districts with a request for clarification of the differentials contained in the reports. The 2009/10 Grand Jury chose to follow-up with individual investigations of each school district.

#### **BACKGROUND**

The 2009/10 Grand Jury received responses from the governing bodies of each of the school districts. The responses were reviewed and found to meet statutory requirements. All three school districts provided responses indicating the recommendations of the 2008/09 Grand Jury had been implemented or was in the process of being implemented.

#### **METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation reviewed.

#### **DISCUSSION**

**Lodi Unified School District - Case No. 11-08A** (See Appendix E, F1, F2, F3 and R1, R2, R3)

Lodi re-submitted a corrected and accurate Consolidated Application to the CDE and SCO on June 9, 2009. Submission of truancy data will become technology based during the 2009/10 school year by implementing two software systems in the school district. As this student information is in the first year of implementation, central office staff will monitor implementation of the procedures associated with the new system. All staff members have become aware of the importance of reporting accurate and complimentary data to agencies and to the public.

**Stockton Unified School District - Case No. 11-08B** (See Appendix E, F1, F1(a) and R1, R2)

Stockton re-submitted a corrected and accurate Consolidated Application to the CDE and SCO on March 17, 2009. Incorrect data was pulled from the Truancy Reporting report and was for notifications of habitual truancy rather than initial notifications of truancy as

requested in the Consolidated Application. Data reported for mandated cost reimbursement is for the notification of initial truancy.

**Tracy Unified School District - Case No. 11-08C** (See Appendix E, F1, F2, F3 and R1, R2, R3)

Tracy re-submitted a corrected and accurate 2007/08 Consolidated Application to the CDC and SCO on June 9, 2009. Confusion and lack of oversight led to under-reporting, only nine of the district's 17 schools submitted truancy numbers. All truancy report information is now generated from the Student Services Office and reported to Clear Vue Consulting for mandated reporting as well as CDE and SCO.

**FINDINGS**

- F1. Lodi Unified School District implemented the use of two new software based truancy monitoring systems and will monitor them during the 2009/10 school year.
- F2. Stockton Unified School District resubmitted corrected Consolidated Applications for the 2007/08 school year and the truancy information reported for the 2008/09 school year was accurate.
- F3. Tracy Unified School District reorganized truancy reporting, ensuring correct truancy numbers are reported to both the CDE and the SCO.
- F4. The CDE and the SCO verified all three school districts resubmitted corrected Consolidated Applications for the 2007/08 school year and the truancy information reported for the 2008/09 school year was accurate.

**RECOMMENDATIONS**

There are no recommendations

**RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from the Board of Trustees for Lodi, Stockton and Tracy Unified School Districts to all findings and recommendations, if applicable, contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

**STOCKTON UNIFIED SCHOOL DISTRICT**  
**2009/10 San Joaquin County Grand Jury Case No 0909H**

**FOLLOW-UP FINAL REPORT**

**REASON FOR INVESTIGATION**

The 2008/09 Grand Jury conducted a follow-up investigation to the report written by the 2007/08 Grand Jury, Case No. 08-07. The case originated with a written complaint containing specific allegations focused on several activities and events by the Stockton Unified School District (SUSD) that may have been inappropriate or possibly illegal. The 2008/09 Jurors wanted to determine if the Board of Education (Board) corrected the problems of the past and had implemented recommendations of the 2007/08 Grand Jury. Immediately following publication of the 2008/09 Grand Jury's Final Report, Case No. 01-08E, important events occurred in SUSD.

The 2009/10 Grand Jury conducted a follow-up investigation to find out if those events had any impact on the findings and recommendations contained in the 2008/09 report. The 2009/10 Grand Jury focused on recommendations that the Board disagreed with, did not act upon, or partially completed. The 2009/10 Grand Jury found that circumstances had changed since the 2008/09 investigation.

**BACKGROUND**

After the publication of the 2008/09 Grand Jury Final Report in June of 2009, major changes took place that affected management and the Board. In September, the Superintendent was dismissed and an Interim Superintendent was appointed. At the time this report was written, the Board was in the process of searching for a permanent Superintendent to be appointed by July 20, 2010.

During 2009 many media reports were published citing the inability of the Trustees to work cooperatively with each other and management. In December of 2009, the Board elected a new President who established high standards for Board comportment. Recalls of two Trustees were initiated; one failed because of a lack of signatures and the other was placed on the June 2010 ballot.

A tremendous fiscal crisis has developed for California school districts. The fiscal impact will dramatically affect SUSD and will continue to do so for many years. The Board and management are faced with making decisions that will have long-term ramifications for the District.

During the 2008/09 school year, SUSD was the 17th largest school district in California with approximately 38,000 students. Enrollment has declined slightly in recent years and SUSD continues to have the largest total enrollment of any school district in San Joaquin County. SUSD operates 55 schools, including five high schools and employs 3,819 full-time equivalent teachers.

Annual general fund expenditures for SUS D during the 2008/09 school year were \$360,793,810. Expenditures for instruction and all other categories are within 1% of the statewide average. Expenditures per Average Daily Attendance were slightly higher than the State average.

SUSD is administered by a seven-member Board. Trustees represent districts within SUS D and serve four-year terms. Board meetings are open to the public and are held on 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month at 7:00 p.m. in the boardroom at the main school district office, 701 N. Madison Street, Stockton, California. Meeting dates and agenda are posted online at <http://www.stockton.k12.ca.us/SUSD/welcome/board.htm>; paper copies are available at the SUS D main office.

## **METHOD OF INVESTIGATION**

An investigation was conducted; testimony was received and applicable documentation was reviewed.

## **DISCUSSION**

The following discussion is based on the findings and recommendations of the 2007/08 and 2008/09 Grand Jury final reports.

### **Hiring Practices** (See Appendix F, F1 and R1)

Trustees addressed the recommendations to reduce the dollar cap for non-instructional and administrative consultants and to review consultant contracts ensuring that there is a need that employees can not fill. The Superintendent retained the ability to create positions and hire employees without a competitive application process.

### **Fiscal Crisis and Management Assistance Team (FCMAT) Audit** (See Appendix F, F2 and R2)

FCMAT was hired to conduct an independent audit of funds received from State and Federal sources. Most operations received high ratings, with the exception of the categorical funding section.

### **Budget and Policy** (See Appendix F, F3 and R3)

It was recommended that Trustees carefully review the budget and policy decisions made by management due to questionable purchases and spending made by the previous Superintendent and management team.

### **Fund Raising** (See Appendix F, F4 and R4)

Reviewing and approving plans for future District-wide fund raising activities to improve accountability was recommended. Creation and use of an independent foundation for fundraising activities was suggested.

### **Trustee/Management Relations** (See Appendix F, F5 and R5)



In November 2008, three new Trustees were elected and a new management team was in place. It was expected that Trustees would hold management accountable for their actions and work as a team to accomplish common objectives. This recommendation was implemented and in place.

**Bond Oversight Committee** (See Appendix F, F6 and R6)

The Board established a Citizen's Bond Oversight Committee to oversee both Measure C and Measure Q Bonds. The Superintendent proposed numerous changes to bond projects.

The Grand Jury recognizes the positive performance of the interim Superintendent. A common sense approach to the difficulties facing the District has brought some stability and direction.

**FINDINGS**

- F1. The 2008/09 Grand Jury found Trustees periodically reviewed contracts and purchases made by management. Recent findings indicate this was not always the case. Information given to the Board by the previous Superintendent was not always given with enough lead time for the Board to study, nor was it always complete or accurate.
- F2. Although the 2008/09 Grand Jury recommendation of developing a procedure for awarding consultant contracts had been implemented, the procedure was vague and open to interpretation. Presently, the interim Superintendent submits consultant requests to the Board for approval prior to hiring.
- F3. In September of 2009, the Board dismissed the Superintendent and appointed an interim Superintendent. The current management team appears to be strong and allows more time for planning. The interim Superintendent and management team now attempt to give information to the Board with more lead time that enables the Board to make better informed decisions.
- F4. During the term of the previous Superintendent there were many misinterpretations of budgetary and economic policy among management and Trustees. This resulted in their inability to work together productively. The interim Superintendent now reviews the budget and expenditures weekly. All purchase order warrants are given to the Board for approval. The County Office of Education also reviews the budget quarterly and presentations are made to the budgetary committee.
- F5. Prior to the dismissal of the previous Superintendent, the Board could not come to agreement on many issues facing SUSD.
- F6. The Citizen's Bond Oversight Committee and Chief Financial Officer of the District review all bond proposals and expenditures. The District is still reviewing ways to maximize bond funds for high schools. Some projects have begun.

- F7. The Trustees and management are currently exploring ways to integrate the FCMAT recommendations on a regular basis through their Five-Year Plan. The Board has reevaluated policies and procedures to address the current budget crisis and operational cuts.
- F8. The creation of private non-profit foundations has not been implemented by SUSD. The interim Superintendent finds it difficult to operate foundations and conduct fundraising activities during hard economic times. Management and Trustees are exploring other ways to generate revenue. Various community groups and businesses have adopted individual schools and are providing support to those schools.
- F9. The Board discontinued the use of the "Success for All" program. They were able to return a portion of the program for partial credit toward the balance owed. They are examining alternative uses for the remaining program materials.
- F10. The current hiring policy encourages qualified SUSD employees to apply for new positions, but maintains a competitive application process. All applications within and outside the District are considered and reviewed equally, with the position being awarded to the most qualified applicant.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. The Board require management to obtain legal counsel review of all contracts prior to Board consideration.
- R2. The Board develop and approve policies that provide management direction on financial and administrative procedures of the District.
- R3. The Board and Superintendent continue to explore a variety of conventional and creative supplemental funding sources for district operations.
- R4. The Board make careful and calculated decisions based on "best practices" and economic considerations when formulating plans for the future.
- R5. Trustees conduct themselves in a manner which displays to the public their willingness to work with each other and management to the betterment of educating children.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from Stockton Unified School District Board of Trustees to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

**SAN JOAQUIN REGIONAL TRANSIT DISTRICT**  
**2009/10 San Joaquin County Grand Jury Case No. 0909I**

**FOLLOW-UP FINAL REPORT**

**REASON FOR INVESTIGATION**

The 2007/08 Grand Jury received a complaint containing several issues of concern regarding the San Joaquin Regional Transit District (RTD) alleging improper management practices and conducted an investigation. The 2008/09 Grand Jury chose to follow-up on that investigation, Case No. 07-07.

The 2008/09 Grand Jury wanted to determine if RTD had corrected problems of the past and were making informed decisions for the District. The Board of Directors responded to the 2007/08 Grand Jury report by disagreeing or partially disagreeing with 14 of the 20 findings. However, all 15 recommendations were implemented. The 2008/09 Grand Jury, Case No. 01-08A, issued seven findings and one recommendation. After reviewing the response, the 2009/10 Grand Jury chose to continue follow-up to determine if the more recent problems had been addressed and corrected.

**BACKGROUND**

RTD currently has 286 employees and services a population of approximately 670,990 in a 1,426 square mile area. It has a fleet of 132 service vehicles. RTD services include Dial-A-Ride, Metro Route, Intercity, Hopper Deviated and Interregional Routes. The 2009 annual ridership was 4,770,104.

Since 2008, RTD has eliminated 48 full-time positions, consolidated routes and dropped 370,658 trips due to budget reductions.

**METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation reviewed.

**DISCUSSION**

The 2009/10 Grand Jury found that RTD had implemented changes as suggested in the 2008/09 Final Report.

**Consultants** (See Appendix G, F1)

RTD has improved the documentation process in the usage of consultants to be more specific to the exact services being rendered. Detailed explanation of consultant services was noted from last year's invoices.

**Employee Incentives** (See Appendix G, F2)

RTD spending on employee incentive movie tickets is in compliance with IRS regulations. This incentive was approved by the Board of Directors.

**Labor Relations** (See Appendix G, F3)

The hiring of a part-time labor relations consultant by RTD continues to be a valuable service that has reduced costs due to improved management/labor relations. The current contract with the labor consultant is for one year and began July 2009. The contract has no retainer clause and fees are due as services are rendered. There has been no use of the labor services consultant in 2010.

**Budget** (See Appendix G, F4)

In 2008, RTD had a budget of \$960,000 for legal expenses; 2009 legal expenses expenditures were \$608,000. Security staff expenses are reasonable, given the hours and benefits. To maximize the benefits of available dollars, the General Manager and staff have been proactive in researching effective routes and making changes to less used routes. RTD has been actively seeking and gaining various grants to help offset losses in state funding. RTD has obtained monetary awards from the American Recovery and Reinvestment Act, the Congestion Mitigation and Air Quality, and many others. Without these steps, further cuts in service would have occurred.

**Board Involvement** (See Appendix G, R1)

The Grand Jury observed well run RTD Board meetings. Board members are involved with all aspects of operations. The Board reviews and adopts all audits, contracts outside of the General Manager's authority, grant applications, special reviews, and other significant financial transactions. Board members are well informed and experienced in community and business affairs. During the writing of this report, one new board member was appointed and a new board chairperson was seated.

**SUSD/RTD Agreement** (See Appendix G, F5)

RTD has entered into an agreement with the SUSD Police Department to take possession of an RTD owned police vehicle in exchange for services. The vehicle is co-branded and is currently in use at various sites served by RTD.

The Grand Jury commends RTD employees for receiving the National Council Safe Driver of the Year for the Pacific Region and the CalAct Transportation Manager of the Year awards. The agency also was awarded the Government Finance Officers Association Excellence in Financial Reporting.

**FINDINGS**

- F1. RTD has been proactive in seeking and gaining alternative funding sources.
- F2. RTD Board members are more involved in financial management aspects.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. RTD continue to seek alternative funding to offset losses due to reduced State funding and reduced ridership.
- R2. RTD continue to monitor ridership and routes to ensure the most effective use of available funding.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from San Joaquin Regional Transit Board of Directors to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

## **SAN JOAQUIN COUNTY HUMAN RESOURCES DEPARTMENT**

**2009/10 San Joaquin County Grand Jury Case No. 0909J**

### **FOLLOW-UP FINAL REPORT**

#### **REASON FOR INVESTIGATION**

The 2009/10 Grand Jury chose to follow-up on the prior year Case No. 09-08. Jurors wanted to determine if the lack of timely performance evaluations, pursuant to Civil Service Rule 13, had been corrected. The Grand Jury reviewed the allegation that yearly performance evaluation reports were not being prepared for classified and exempt at will employees. The Grand Jury wanted to verify that the recommendations of the previous Grand Jury had been implemented.

#### **BACKGROUND**

The County Administrator and 29 departments are responsible for all classified employees who provide services to San Joaquin County residents. Civil Service Rules and Regulations are adopted by the Civil Service Commission and approved by the Board of Supervisors. The Director of HR (HR) is responsible for the hiring process and enforcement of periodic employee performance evaluation reviews. Exempt, at-will employees are specifically not covered by Civil Service Rule 13.

#### **METHOD OF INVESTIGATION**

An investigation was conducted, testimony received and applicable documentation reviewed.

#### **DISCUSSION (See Appendix H)**

HR "best practices" suggest that employees receive annual performance evaluations. Formal evaluations that focus on performance are a valuable tool when determining the future and effectiveness of an employee. Creating a system that addresses the needs and expectations of most employees is beneficial to both the employee and employer.

A number of department heads were not complying with Civil Service Rule 13, as mandated for classified employees. The San Joaquin County Performance Guidelines lack mandates for performance evaluations for exempt employees. However, the HR Division Director encouraged all department heads to provide timely feedback through an evaluation of exempt employees in a manner the reviewer thinks is appropriate.

The 2008/09 Grand Jury found that the HR Department was utilizing software that lacked the capacity for tracking compliance of performance evaluations. However, the department is implementing software enhancements to record dates and status of all employees.

## **FINDINGS**

- F1. A 30 day tickler system prompts departments of pending employee performance evaluations with periodic reminders.
- F2. The HR Director has access to all employee performance evaluations.
- F3. HR worked with the Information Systems Division to develop and provide several tools to help departments easily identify the status of compliance with Civil Service Rule 13.
- F4. HR anticipates having an electronic method of recording performance evaluations by the end of 2010.
- F5. Although performance evaluations are not mandated for exempt at will employees, the HR Director has encouraged department heads to provide timely feedback.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. HR Director routinely monitor the status of performance evaluations for all departments, ensuring the County is in compliance with Civil Service Rule 13, Annual Performance Evaluations.
- R2. Annual performance evaluations for all employees.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from San Joaquin County Board of Supervisors to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

**CITY OF STOCKTON**  
**NEIGHBORHOOD SERVICES/CODE ENFORCEMENT**  
**2009/10 San Joaquin County Grand Jury Case No. 0909K**  
**FOLLOW-UP FINAL REPORT**

**REASON FOR INVESTIGATION**

The 2008/09 Grand Jury received complaints alleging the Neighborhood Services/Code Enforcement Division (CED) of the City of Stockton was uncooperative and imposing unattainable demands on clients. The 2008/09 Grand Jury conducted an investigation of these complaints and the overall operations of CED, Case No. 07-08. The 2009/10 Grand Jury followed up to determine if findings and recommendations had been addressed.

**BACKGROUND**

CED operates under the authority of the Stockton Police Department. It is administered by a Deputy Chief of Police and other police department staff. There are intradepartmental divisions that include vehicle and graffiti abatement, the Volunteers Out Identifying Code Enforcement Program (V.O.I.C.E.), rental property inspections and vacant property issues. CED officers' primary responsibility is to reduce neighborhood blight. This is accomplished through administrative citations, civil actions against property owners to address substandard building conditions and criminal prosecution; and through demolition of unsafe buildings and the assessment/recovery of abatement costs.

CED operates primarily on a complaint driven basis and anonymous complaints are accepted. Upon receipt of a complaint, the subject property is inspected. If violations are found, the property is posted with a citation notice, a case file is opened and documents are sent to the property owner. Follow-up visits are scheduled as necessary. If the property owner does not comply with applicable codes, fines and fees are assessed.

Citizens may ask questions and offer comments about CED and other city departments, through the City website link, "Ask Stockton." The City Manager tracks this information and a department representative responds via E-mail or by other methods, depending on the urgency and/or subject matter.

**METHOD OF INVESTIGATION**

An investigation was conducted; testimony received and applicable documentation reviewed.



## **DISCUSSION**

The City of Stockton is currently experiencing one of the highest foreclosure rates in the nation. The number of vacant properties resulting from foreclosure and abandonment is straining local resources, causing blight and creating havens for criminal activity. The effect is the devaluation of local properties. Even though CED has suffered severe budgetary cutbacks, City leaders have demonstrated a willingness to address the challenges of neighborhood blight.

### **Community Outreach** (See Appendix I, F1, F6, F7, F9 and R1)

In addition to holding regularly scheduled neighborhood/community meetings, CED provides speakers for various neighborhood/community association and business staff meetings. CED maintains a page on the City website which has information of interest to realtors and citizens. It has links to Code Enforcement tools, such as the Graffiti Abatement Program, the Residential Rental Inspection Program, the V.O.I.C.E. Program, Hotel/Motel Permitting, the Clean Sweep Program and the Abandoned Vehicle Abatement Program.

### **Improved Resources for Property Buyers** (See Appendix I, F4, F5, F8 and R2, R6, R7)

CED has created a helpful brochure for realtors in Stockton, *Vacant & Abandoned Buildings & Properties - Realtor Edition*. It contains information about what a realtor can do to ensure escrow is not delayed. A citizen's request form to obtain information about properties in Stockton is now available on the website. Information about active or prior code enforcement activities and actions, permit issues, and liens or fines/fees on a property can be requested. A fee may apply to access this information.

### **Task Force** (See Appendix I, F11 and R3)

The 2008/09 Grand Jury recommended the establishment of a Graffiti Abatement/Community Anti-Blight Task Force. A multi-disciplinary group was formed in April of 2008 to address graffiti and blight issues. It was comprised of staff from the Police, Finance, Public Works, Parks Departments and the County Probation Department.

### **Code Enforcement Link** (See Appendix I, F2, F3 and R4, R5)

Code enforcement contact information can now be directly accessed through a link on the home page of the City of Stockton's website: <http://www.stocktongov.com/INDEX.cfm>.

### **Property Entry by Code Enforcement Officers** (See Appendix I, R8)

As part of CED's goals to improve community service, the Code Enforcement Supervisor audits the work of the officers to ensure they are following procedures.

### **Remote Computer Operations** (See Appendix I, F10 and R9)

By August 2009, computers had been installed in all vehicles used by Code Enforcement Officers.

## **FINDINGS**

- F1. In January 2010, the multi-disciplinary Graffiti Abatement/Community Anti-Blight Task Force was eliminated due to budget reductions. However, CED continues to perform limited services.
- F2. There is no search feature on the City's website that allows the public to find an active code enforcement case for a specific address. This issue is pending court action.
- F3. CED implemented eight 2008/09 Grand Jury recommendations through their goals to improve community service. The remaining recommendation is pending court action.
- F4. CED developed a brochure for realtors and property buyers of vacant and abandoned buildings, which provides information to ensure escrows are not delayed due to code violations. Citizens can obtain information about properties they are purchasing by completing and submitting a form. The brochure and form are on the City of Stockton's website.
- F5. There is a direct link to CED on the City's website.
- F6. CED personnel have been trained to use computers that are installed on all CED vehicles.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

- R1. When funding allows the City of Stockton re-institute the multi-disciplinary Graffiti Abatement/Community Anti-Blight Task Force.
- R2. If the judicial review allows, the City of Stockton website include a search feature that allows the public to find an active code enforcement case for a specific address.

## **RESPONSE REQUIRED**

California Penal Code sections 933 and 933.05 require that specific responses from Stockton City Council to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Superior Court within 90 days of publication of this report.

## APPENDIX A

### INFORMATION AND TECHNOLOGY SECURITY:

#### SAN JOAQUIN COUNTY AND CITIES

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**The San Joaquin County Board of Supervisors (BOS)** responded to the 2008/09 Grand Jury Report Case No. 03-08. This includes the following two findings and two recommendations:

#### **2008/09 Finding #1: Agricultural Commissioner's Office**

- a. "Out-dated and unsupported Server Operating System (Windows NT 4.0) still in service, though not in a critical role.
- b. Disaster preparedness and recovery plan is currently under review.
- c. Personnel IT Security training has not yet begun."

BOS response to Finding #1: *"The Agricultural Commissioner's Office agrees with the Grand Jury's findings. Our disaster preparedness and recovery plan review was completed prior to publication of the Grand Jury's findings. Several weaknesses in recovery were found and corrected."*

#### **2008/09 Recommendation #1:**

- a. "Upgrade outdated server operating systems.
- b. Ensure that IT Security training for all personnel begins immediately and full compliance is achieved in a timely manner."

#### BOS response to Recommendation #1:

- i. *"The Agricultural Commissioner's Office budgeted \$7,200 in the 2009/10 fiscal year to replace the outdated server and operating system with a Dell Power Edge Server running Windows Server 2003R2 Standard Edition.*
- ii. *IT Security training for all personnel is currently underway. Staff completion of ISD's [Information Systems Division] online Security Awareness course is expected by July 31, 2009."*

**2008/09 Finding #2: Public Defender's Office**

- a. "Primary and backup servers are out-dated. The server operating system (Windows NT 4.0) is nearly 4 years past the manufacturer's end-of-life dates)
- b. 90% of department employees have so far failed to complete the county's IT security training
- c. Critical or confidential "case information" is allowed to be stored on local workstations
- d. Portable and mobile devices, presumably also with confidential case information, are unencrypted, though password protected"

BOS response to Finding #2:

- a. *"While we do not dispute the factual claim as to the age of the system, suffer no lack of function meriting the term "out-dated".*
- b. *Over 20% of the Department has been able to complete the County's IT security training.*
- c. *This is true.*
- d. *This was untrue by the time of the issuance of the report. All laptops have been encrypted."*

**2008/09 Recommendation #2:**

- a. "Upgrade outdated server operating systems
- b. Ensure that IT Security training for all personnel begins immediately and full compliance is achieved in a timely manner
- b. Establish and enforce policy to prohibit local file storage of confidential information
- c. Where portable devices such as laptops are required, insure that hard drives are encrypted"

BOS Response to Recommendation #2:

- a. *"This recommendation will be implemented once a budget item covering the cost of this improvement has been adopted by the Board of Supervisors. The Report was issued too late in the fiscal year for a Projects budget when the Public Defender's Office moves to its new East Main Street site later this fiscal year, the current fiscal crisis compels us to wait on this improvement until next fiscal year.*

- b. *The online program is not currently available to some of our employees. We will work with Information Systems to achieve full compliance this calendar year.*
- c. *This recommendation will not be implemented, as it virtually eliminates the usefulness of computers in the representation of clients. It is important to understand that the Office of the Public Defender stores large amounts of confidential data in a database which 1) remains completely inaccessible to the rest of the world, and yet which 2) can be easily shared between members of the office. Each work station is already password-protected. Putting data encryption on each work station would add another layer of protection. A decision about whether this second level of protection is truly valuable, rather than cosmetic, awaits further study. This decision will be made this calendar year before we move. At a cost of \$40 per workstation plus annual maintenance, this improvement would also need to be delayed until next fiscal year unless adequate funding can be found in the Capital Projects budget at the time of the move.*
- d. *This recommendation has been implemented, as stated above."*

**The San Joaquin County District Attorney (DA)** responded to the 2008/09 Grand Jury Report Case No. 03-08. This includes the following finding and recommendation:

2008/09 **Finding #3:** "Evidence of a documented disaster preparedness and recovery plan was not provided"

DA response to Finding #3: *"The respondent agrees with the finding."*

2008/09 **Recommendation #3:** *"Prepare a comprehensive and documented disaster recovery and business continuity plan"*

DA response to Recommendation #3: *"This recommendation has not been implemented, but will be in the next six months. We are in the process of implementing a new case management system in the District Attorney's Office. The project has been underway for a year now. A documented disaster recovery plan will be prepared as part of that process."*

**Stockton City Council (SCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. This includes the following two findings and two recommendations.

2008/09 **Finding #4:** "Chronic understaffing and the recent layoff of the Director of Information Technology"

SCC response to Finding #4: *"The respondent partially agrees with this finding. Staffing levels throughout the organization have been reduced in response to declining revenues, resulting in operational challenges. The Director of Information Technology was recently laid off to further reduce operating costs. Through reorganization, the Information Technology Department was combined with the Administrative Services Department and is under the leadership of the Administrative Services Director/Chief Financial Officer."*

**2008/09 Recommendation #4:** "Chronic understaffing and lack of leadership should be promptly addressed"

SCC response to Recommendation #4: *"The recommendation has not yet been implemented. As a result of fiscal constraints, some unfunded positions have been eliminated and the filling of vacant funded positions has been judicious. All City departments are in the process of assembling a two-year staffing plan to be presented to the Council later in calendar year 2009. The two-year plan will make recommendations based on organizational priorities, staffing needs, and resource availability."*

**2008/09 Finding #5:** "Lacks a documented disaster recovery or business continuity plan"

SCC response to Finding #5: *"The respondent disagrees with this finding. The Information Technology Division of the Department of Administrative Services continues to maintain comprehensive, documented disaster recovery plan and business continuity plans including:*

- *AS/400 (IT/iSeries) Disaster Recovery Plan*
- *Disaster Recovery Plan Police Department Systems*
- *Overview and Back Up Strategy Details for Information Technology (IT) Graphical Information Systems (GIS) Disaster Recovery Plan*
- *Disaster Recovery Procedures for Servers and Network Devices*
- *Standard Operating Procedures for Fire Computer-Aided Design (CAD) and Records Management Systems (RMS)*

*The Disaster Recovery documents are on file in the Information Technology Division. The City has the documents in place and is continuing to work to improve them."*

2008/09 **Recommendation #5:** “Prepare a comprehensive and documented disaster recovery and business continuity plan”

SCC response to Recommendation #5: *“Recommendation has been implemented. The comprehensive disaster recovery and business continuity plans were listed in Finding #2 above.” (Is Finding #5 in this Appendix)*

**Lodi City Council (LCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. The following four findings and three recommendations:

2008/09 **Finding #6:** “The current location of city data center and backup generator are below ground level”

LCC response to Finding #6: *“Agrees with finding.”*

2008/09 **Recommendation #6:** “Develop plans and preparations for the relocation of the data center to a more secure location”

LCC response to Recommendation #6: *“The recommendation will not be implemented; but it will be given further analysis. The report infers that because the City’s data center is below ground level it is not secure; this is incorrect. While the data center is located below ground level, it is in a secure location with a nominal risk of damage from environmental factors. However, the City will give this matter further analysis since it has applied for American Recovery and Reinvestment Act funding (Stimulus funding) to rehabilitate other City-owned space for use as a new data center.”*

2008/09 **Finding #7:** “Web filtering is in place, but access to private email accounts has been allowed”

LCC response to Finding #7: *“Agrees with finding.”*

2008/09 **Recommendation #7:** “Extend IT security policy to restrict access to external email accounts from the city network”

LCC response to Recommendation #7: *“The recommendation will not be implemented. Access alone to external e-mail systems is not a security issue. Although a security issue may arise, depending upon the activities undertaken while using the web e-mail account, the City’s web filtering software significantly minimizes any risks. Additionally, the City’s network access policy restricts web access to business related purposes and all employees are aware of this policy. Finally, there are certain City activities that are best handled under e-mail accounts that are not readily identifiable to the City, for example,*

*the Police Department in undercover investigations. A blanket prohibition of external e-mail systems is not in the City's best interest."*

2008/09 **Finding #8(a):** "Independent IT support of Finance Department should be answerable to central IT policies and lacks internal controls"

LCC response to Finding #8: *"Disagrees with finding. The Finance Division is a part of the Internal Services Department, along with the Information Services Division. Both Divisions report to the Deputy City Manager/Internal Services Department Director who exercises oversight and control over both divisions."*

2008/09 **Finding #8(b):** "Web email accounts and independent IT support for Finance violates sound security policy"

LCC response to Finding #9: *"Disagrees with finding. Access to web e-mail accounts, in itself, is not a security issue. A security issue may arise, depending upon the activities undertaken, while using the web e-mail account. The City's web filtering software significantly minimizes any risks. Further, the City's Network Access Policy restricts web access to business-related purposes and all employees are aware of this policy. As noted in the response to Finding 6 (Finding #8 in this Appendix), there is no independent IT support for the Finance Division."*

2008/09 **Recommendation #8:** "Ensure all IT support staff function under unified policies and management"

LCC response to Recommendation #8: *"The recommendation was already in place. Central IT staff is all in the Internal Services Department and are directly accountable to the Deputy City Manager/Internal Services Director. All IT staff follow the same set of policies and procedures."*

**Lathrop City Council (LPCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. The following two findings and zero recommendations:

2008/09 **Finding #9:** "Hardware redundancy on critical systems with plans to expand as budget allows"

2008/09 **Finding #10:** "Plans for disaster recovery and business continuity are currently in development"



LPCC response to findings #10 and #11: *"The City Council agrees with all of the findings listed above."*

**Tracy City Council (TCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. The following two findings and three recommendations:

2008/09 **Finding #11:** "Lacks a written security policy"

TCC response to Finding #11: *"While the City does not have a policy specifically named Security Policy, it does have a policy in place called the Computer Equipment policy which addresses security issues. The existing policy prohibits users from installing private software, connecting anything to the City network without permission, and addresses acceptable Internet use."*

2008/09 **Recommendation #11(a):** "Prepare a clear and comprehensive IT security policy approved and endorsed by city management"

TCC response to Recommendation #11(a): *"Security issues are sufficiently addressed in the existing Computer Equipment policy. Acceptable Internet use is also addressed in this policy. Updating and expanding upon the existing policy is an ongoing project. Completion of this project is anticipated to occur in January of 2010."*

2008/09 **Recommendation #11(b):** "Ensure and document that every employee is informed of the IT security policy and the consequences of violations"

TCC response to Recommendation #11(b): *"Human Resources staff requires new hires to sign acknowledgement forms indicating that they have read and understood City policies, including the Computer Equipment policy."*

2008/09 **Finding #12:** "Employees are allowed unrestricted access to web email accounts and the internet"

TCC response to Finding #12: *"Employees are not allowed unrestricted use of webmail accounts and the Internet. Other than allowing for occasional and minor personal use, the City's policy limits employee use to City business."*

2008/09 **Recommendation #12:** “Implement tighter internet access controls on the network”

TCC response to Recommendation #12: *“The City disagrees with the recommendation because employees are not given unrestricted access to the Internet. City policy clearly sets strict limits only allowing incidental use during non-working hours only.”*

**Manteca City Council (MCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. The following four findings and four recommendations:

2008/09 **Finding #13:** “Limited security policies in place address only email and software use”

MCC response to Finding #13: *“The City agrees with the finding.”*

2008/09 **Recommendation #13:** “Expand current IT security policies to provide greater guidance and insure that all employees are informed of the policy updates”

MCC response to Recommendation #13: *“The City will implement additional security policies within a period not to exceed six months.”*

2008/09 **Finding #14:** “The few city owned laptops do not have hard drive encryption”

MCC response to Findings #14: *“The City agrees with the finding, and has implemented encryption since issuance of the report.”*

2008/09 **Recommendation #14:** “Where portable devices such as laptops are required, insure that hard drives are encrypted”

MCC response to Recommendation #14: *“Since the issuance of the Grand Jury Report, the City has implemented hard disk encryption on new laptop computers. This solution requires the entry of a password at boot time to unlock and allow access of the hard drive of the PC.”*

2008/09 **Finding #15:** “Lacks a documented disaster recovery plan”

MCC response to Finding #15: *“The City agrees with the finding.”*

2008/09 **Recommendation #15:** “Prepare a comprehensive and documented disaster recovery and business continuity plan”

MCC response to Recommendation #15: *“The City will prepare a comprehensive disaster recovery and business continuity plan at such time when budget allows a comprehensive study to determine the risks at hand, and identifies the methods to mitigate risks.”*

2008/09 **Finding #16:** “Emergency backup power not available for the entire data center”

MCC response to Finding #16: *“The City agrees with the finding.”*

2008/09 **Recommendation #16:** “Ensure emergency backup power is supplied to the entire data center”

MCC response to Recommendation #16: *“The City currently provides UPS – uninterruptible power supply to all servers. Emergency generator backup power will be provided to the primary data center, located in the City’s Finance department within a period not to exceed one year. Emergency generator backup power is currently provided to the City’s core switch and phone switch area. Because the City center is quite old and does not have a centralized server room, there are some tertiary server locations that are not deemed critical to the business operations of the City. These servers will remain strictly on UPS backup power.”*

**Ripon City Council (RCC)** responded to the 2008/09 Grand Jury Report Case No. 03-08. The following four findings and five recommendations:

2008/09 **Finding #17:** “Lacks a written IT Security Policy and provides no means for insuring that employees are aware of and adhere to such policies”

RCC response to Finding #17: *“The City of Ripon respectfully disagrees with the finding. The City of Ripon currently has in place IT Security Policies and a means to ensure that all employees are aware of and adhere to its policies.*

*The City of Ripon currently has a written IT Security Policy, entitled “City of Ripon, Computer Policy.” The City also ensures that all employees are trained regarding appropriate use of the computer systems and the consequences for*

*failure to do so. Specifically, all employees are instructed regarding the importance of computer security and their respective responsibilities in keeping all information secure. The City of Ripon continually reviews its policies and updates as necessary to reflect recent technological innovations and applications.*

*The City of Ripon intends to institute a policy whereby all employees would be required to verify their understanding of the IT Security Policy with a written acknowledgement.*

*The City of Ripon's Police Department has additional requirements for its law enforcement employees and volunteers. Those individuals currently receive a written IT Security Policy, entitled "Policy 342, Ripon Police Department, Department Computer Use." Those individuals also receive training on the California Law Enforcement Telecommunications (CLETs) policies and procedures. They are also governed by provisions of the California Penal Code regarding authorized access to the computer systems. They receive early training and are required to sign a document verifying that they understand all the policies and procedures."*

**2008/09 Recommendation #17(a):** "Prepare a clear and comprehensive IT security policy approved and endorsed by city management"

RCC response to Recommendation #17(a): *"The City of Ripon already has in place, as recommended, a clear and comprehensive IT security policy. Pursuant to this report, we have upgraded our City IT Security Policy which has been adopted for all city employees. The City of Ripon recognizes the importance of such a policy and will continually strive to improve their policy consistent with the Grand Jury's recommendation."*

**2008/09 Recommendation # 17(b):** "Ensure and document that every employee is informed of the contents of this policy and the consequences of its violation"

RCC response to Recommendation #17(b): *"The City of Ripon already has in place a process, as recommended, to ensure that every employee is informed of the contents of the policy and the consequence of its violation. The City of Ripon recognizes the importance of communicating the policy to its employees and will continually work to improve their communication methods consistent with the Grand Jury's recommendation."*

**2008/09 Finding #18:** "Lacks a documented disaster recovery plan"

RCC response to finding #18: *"The City of Ripon respectfully disagrees with the finding. The City of Ripon currently has a disaster recovery plan in place."*

*The City of Ripon currently holds a proprietary contract with WayPoint Network Solutions to provide disaster recovery for its computer network system. The City of Ripon continually reviews its disaster recovery plan as technology changes and updates as necessary.*

*The City of Ripon has produced, for public-inspection, a document outlining WayPoint Network Solutions and the City of Ripon's disaster recovery plan. A copy is included with this response."*

**2008/09 Recommendation #18:** "Prepare a comprehensive and documented disaster recovery and business continuity plan"

RCC response to Recommendation #18: *"The City of Ripon already has in place, as recommended, a comprehensive disaster recovery and business continuity plan. The City of Ripon, pursuant to this report, has placed this plan in a written format and attached a copy to this response. The City of Ripon recognizes the importance of such a disaster recovery plan and business continuity plan and will continually work to improve their plan consistent with the Grand Jury's recommendation."*

**2008/09 Finding #19:** "No systematic method exists to insure that critical software patches are applied as they become available"

RCC response to Finding #19: *"The City of Ripon respectfully disagrees with the finding. The City of Ripon currently has a procedure in place to insure that critical software patches are applied as they become available.*

*The City of Ripon employs a full-time Information Technology Administrator. Part of the IT Administrator's duties is to, on a daily basis, apply critical software patches as they become available. In addition, as part of their contract with the City of Ripon, WayPoint Solutions, on a routine basis, acts as an auditor to ensure that all critical software patches are installed. The City of Ripon continually reviews its technology security and updates as necessary."*

**2008/09 Recommendation #19:** "Adopt manual or automated process that insures every server and workstation is kept current with all security patches and anti-virus updates"

RCC response to Recommendation #22: *"The City of Ripon already has in place, as recommended, a process to insure every server and workstation is kept current with all security patches and anti-virus updates. The City of Ripon recognizes the importance of such protection and will continually work to improve their process consistent with the Grand Jury's recommendation."*

2008/09 **Finding #20:** “The secure storage of backup tapes was inadequate”

RCC response to Finding #20: *“The City of Ripon respectfully disagrees with the finding. The City of Ripon currently has a procedure for the secure storage of its [encrypted] backup tapes. The City of Ripon, on a daily basis, backs up its system and stores an archive of backup tapes in a secure, climate-controlled location on the premise. A second set of backup tapes are stored in the City’s fireproof vault. The backup tapes are rotated each week to be sure that a live-set of data, no more than a week old, is kept in the vault. A third set of backup tapes is taken to a secure off-site location. To increase the security of the off-site tapes the City has recently purchased a finger-print identification lockable safe to further increase the safety of these off-site backup tapes.*

*The City of Ripon continually reviews its backup storage security and makes changes as necessary. The City is currently evaluating alternative secure locations for the storage of these off-site tapes.”*

2008/09 **Recommendation #20:** “Ensure that the off-site storage of backup tapes is secure”

RCC response to Recommendation #20: *“The City of Ripon already has in place, as recommended, a secure off-site location for storage of its backup tapes. The City of Ripon recognizes the importance of backup tape security and will continually work to improve the security of its backup tapes consistent with the Grand Jury’s recommendations. A finger-print identification safe has been obtained and installed to further secure our off-site backup tapes.”*

**Sheriff-Coroner Office** (SO) responded to the 2008/09 Grand Jury Report Case No. 03-08. The following finding and recommendation:

2008/09 **Finding #21:** “At least one server is running dated operating system (Windows NT 4.0)”

SO response to Finding #21: *“The respondent (San Joaquin County Sheriff’s Office respectfully does not agree with the finding.*

*As the method of investigation was a “layman’s inquiry, it is understandable that with the published expectation of:*

***Communications and operations management:** Adequate tools and services be provided to insure that information in these systems is properly monitored, managed and protected. (i.e. anti-virus software, spam and internet filters, security patching, and supported operating systems on all servers and work stations).*

*Would on its face direct that as only one server at the Sheriff-Coroner's Office was running Windows NT 4.0 with all available security patches and upgrades applied prior to the industry no longer providing ongoing support is applicable.*

*However, upon closer scrutiny the server in question was not running any critical or essential applications. The identified server residing within the Sheriff's secure network environment was not at risk from attack, as it had no access from outside the office network.*

*Originally, the identified server was a legacy domain controller which was replaced during our Active Directory upgrade. Should this server have become unavailable due to either software or hardware failure, nothing would have been lost and services would not have been impacted.*

*In light of these facts we hold that our network is in compliance with the overall goals of network security."*

**2008/09 Recommendation #21: "Upgrade outdated server operating systems"**

*SO response to Recommendation #4: "The recommendation will not be implemented as the identified server has been decommissioned. This will better serve the Sheriff-Coroner's Office as no costs will be incurred for new software and physical maintenance on the hardware will no longer be required."*

## APPENDIX B

### STOCKTON-SAN JOAQUIN COUNTY LIBRARY

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**Stockton City Council (SCC)** responded to the 2008/09 Grand Jury Report Case No. 05-08. This includes the following five findings and eight recommendations.

**2008/09 Finding #1:** “The former Library Director created a new position of Program Director III and hired a friend from San Diego to fill the position at a management salary. Her primary responsibility was to raise funds for the library even though she had minimal experience in fund raising. The Grand Jury found no evidence of new fund development during her tenure. The new position was added even though the Library System already had a Deputy Director on the staff that could have performed the same function.”

*SCC response to Finding #1: “The respondent disagrees with this finding. Although the individual was a colleague/friend of the Library Director, the Program Manager III (Development Officer) was selected through the City’s recruitment process and the applicant selected had the appropriate background and experience for the position. As a Literary Consultant she organized fundraising campaigns that included grant writing, charitable gifts, and corporate sponsorship. The applicant was an experienced and effective fund raiser, and over the past twenty years she was instrumental in bringing forth \$4 million to augment library programs and services.*

*The Program Manager III’s duties were to plan, direct, and coordinate daily operations of the Division and manage all aspects of fund development and fundraising, with an emphasis on major gifts. In addition the person selected for this position was to serve as the liaison to the Friends groups and the Library and Literacy Foundation. Other duties included developing and implementing a strategic major gifts fundraising program and setting ambitious goals.*

*New fund development occurred during her tenure, and grants were secured from the Target Foundation in the amount of \$17,255. Prior to her recent layoff, she worked on partnerships with the local school districts to help fund the Tutor.com program that provides on-line tutoring services for the school districts. The program’s cost is \$90,000 and each school district would contribute \$18,000. Additionally, she coordinated the City’s Homework Center Grants Program. More time would have been allocated to fundraising; however, she was asked to take on other tasks as the organization was downsized.*



*The Deputy Director's position does not include fundraising responsibilities; rather, the primary functions are to oversee the day-to-day operations of the Department."*

**2008/09 Recommendation #1:** "Immediately reallocate funds to increase the purchase of new books and materials"

SCC response to Recommendation #1: *"This recommendation has not been implemented. This time frame will be based on economic recovery. As funding sources become available, allocations will be provided. The Library's Fiscal Year 2009-10 materials budget was reduced by 60% from the Fiscal Year 2008-09 level."*

*Currently, the Library Services Division works closely with Friends groups and the Foundation to secure funding for new books and materials. Recently, the Stockton Friends of the Library earmarked \$75,000 towards new books and materials. The Library will allocate funds earmarked for books and materials by the Friends of the Stockton Public Library, other Friends of the Library groups, and the Library & Literacy Foundation, and funds from the Library's Fiscal Year 2009-10 materials budget for the purchase of new books."*

**2008/09 Finding #2:** "A recent City Audit found \$3.4 million in uncollected fines, fees and lost materials"

SCC response to Finding #2: *"The respondent agrees to this finding. The \$3.4 million represents uncollected fines, fees, and lost materials accumulated over 25 years. Steps are being taken to address the uncollected fines, fees, and lost materials."*

**2008/09 Recommendation #2a:** "Implement an annual amnesty week which allows overdue books and materials to be returned to the library without fees or fines"

SCC response to Recommendation #2a: *"This recommendation requires further analysis, as it contradicts recommendation #3. Library staff has consulted with the City Attorney regarding the Library's Circulation policies and procedure. Fee-waiving (amnesty) periods might be permitted through the City Council's authorization of the Library's Circulation policies. The Library will be seeking City Council approval for its revised Circulation policies."*

*Nationally, public library practices recommend against an annual fee-waiving (amnesty) period if such a period is allowed at all. Library customers tend to hold back on fine payment in anticipation of the annually scheduled fee-waiving (amnesty) period. Such periods need to be scheduled on a sporadic and irregular basis, not annually."*

2008/09 **Recommendation #2b:** "Implement a zero-tolerance policy with regard to late fees and fines"

SCC response to Recommendation #2b: *"This recommendation is counter-productive to recommendation #2a."*

*"This recommendation has been implemented through a January 1, 2009 zero-tolerance policy with regard to late fees and fines."*

*The implementation of the January 1, 2009 zero-tolerance policy has reduced the accumulation of fines/fees thresholds and encouraged timely payment. In that policy, the circulation/check-out and computer-use blocking threshold was lowered from \$14.99 worth of fines/fees to \$9.99. The implementation of the \$9.99 blocking threshold has resulted in a 10% increase in fine/fee payments. Thus, the Library is considering further lowering the blocking threshold to \$4.99 worth of fines/fees. The Library's threshold for referring customers with unpaid fines/fees to a collection agency will be lowered from \$49.99 to \$25.00, and customers who have returned their late materials, but still have unpaid fines totaling \$24.99 or more, will also be referred to the collection agency.*

*Currently, Library Services staff is reviewing all policies, and researching what other library systems are doing in this area. The Library's Circulation policies and procedures, including zero-tolerance, any allowable exceptions, and potential fine-waiver periods will be revised and brought to the City Council for approval. Based on the findings, a new policy is anticipated to be in place by the end of December 2009.*

*Note: The Library is working with the City Attorney and Administrative Services Finance Division on the uncollectible fines and fees in the 25-year old accumulation cited by the City Auditor."*

2008/09 **Finding #3:** "The City Manager's Office failed to oversee the operation of the Library System. It was the responsibility of a Deputy City Manager to oversee the Library Director. Ineffective and irresponsible oversight contributed to questionable library expenditures and low staff morale"

SCC response to Finding #3: *"The respondent disagrees with this finding. Biweekly meetings are held with a Deputy City Manager where issues and concerns are discussed in detail."*

2008/09 **Recommendation #3a:** "The City Manager increase supervision of the Deputy City Manager for Library Services"

SCC response to Recommendation #3a: *"This recommendation has been implemented. Supervision of Library services has been placed under a Deputy City Manager who meets bi-weekly with the Director of Community Services to*

*discuss issues and concerns. The Deputy City Manager has an open door management style that allows concerns to be immediately addressed."*

**2008/09 Recommendation #3b:** "The Director of Library Services receive an annual written performance evaluation"

SCC response to Recommendation #3b: *"This recommendation is being implemented. All department heads will be reviewed on an annual basis and expectations provided. The Deputy City Manager meets with the Community Services Director on a bi-weekly basis to discuss issues, address concerns, and problem solve."*

**2008/09 Recommendation #3c:** "The San Joaquin County Board of Supervisors and Stockton City Council mutually establish and appoint citizens to a Library Advisory Commission. The Commission will report and make recommendations on matters pertaining to the operation of library services and facilities"

SCC response to Recommendation #3c: *"This recommendation will not be implemented. Mechanisms that monitor the operations and fiscal issues of Library services are in Place. Under the direction of the Community Services Department Director, transparency, policy review, administrative changes, consolidation of operations for efficiency, administrative and facility operation, and communication with San Joaquin County and City Council have significantly improved. Currently, the Library and Literacy Foundation for San Joaquin and six Friends of the Library groups make recommendations to the governing bodies regarding Library matters."*

**2008/09 Finding #4:** "The majority of library patrons still attempt to use the library as a source for new books. There is a strong perception, especially by patrons of the branches funded directly by the City of Stockton, that new books are generally unavailable. The current on-line reservation policy ensures patrons' access to new books. This policy limits walk-in user access to these same new books"

SCC response to Finding #4: *"The respondent agrees with this finding. The current on-line reservation procedures are similar to those followed by the vast majority of public libraries nationwide. The process ensures patrons' access to new books when they are ordered and before they become available on the browsing shelves. Experienced library patrons place their reserves on new books when the order records appear in the on-line catalog."*

*The majority of library patrons still attempt to use the library as a source for new books. There is a strong perception, especially by patrons of the branches funded directly by the City of Stockton, that new books are generally*

*unavailable. The current on-line reservation policy ensures patrons' access to new books. This policy limits walk-in user access to these same new books.*

*In Fiscal Year 2009-10, the Library's materials budget has been significantly reduced. To address walk-in user's access to new books, Friends of the Library groups and the Library & Literacy Foundation have donated funds to augment the Library's materials budget so that multiple copies of new and best selling titles can be purchased. Some Friends copies of new and best selling titles can be purchased. Some Friends groups have also donated funds for rental book collections so that those patrons who do not wish to be on a reserved title waiting list are able to visit a branch Library and access the best sellers on the shelf for a small fee."*

**2008/09 Recommendation # 4:** "Revise the current policy to allow for a portion of new books to be placed on shelves so that walk-in customers have the opportunity to check them out"

*SCC response to Recommendation #4: "This recommendation requires further research. The Library will investigate the re-programming of the Sirsi request software to defer the "reserved" designation on a portion of new books that have that designation, allowing them to be placed on the new book shelves. The new books that do not have reserves placed on them continue to be available on the new books shelves. Branches with Rental Collections continue to make new and best-seller books available on the new books shelves to walk-in customers for a small fee."*

**2008/09 Finding #5:** 'Valuable historical special-collection materials are stored in an unsecured area of the Chavez Library. A current inventory of these materials does not exist'

*SCC response to Finding #5: "The respondent agrees with this finding. Steps are being taken to enhance the security of the historical and special-collection materials in the storage area of the Central Library. The Library is considering a partnership with other agencies to appropriately store/house some of the historical materials, as the Chavez Central Library building does not have the environmental capacity to do so. The materials stored elsewhere would be in an archive with 100% controlled access.*

*The materials in the historical and special collections are hand-inventoried; and most are not in the Library catalog. Based on the volume of materials and staff reductions resulting from budgetary constraints, the process is anticipated to be completed by June 30, 2010."*

2008/09 **Recommendation #5:** "The historical special-collection materials be inventoried and stored in a secure area within 6 months"

SCC response to Recommendation #5: *"This recommendation has not been implemented, but will be with a time frame for implementation. The Community Services Department is currently establishing a process to archive the special collection materials and store them in an appropriate location. Based on the volume of materials and staff reduction from budgetary constraints, the process should be completed by June 30, 2010.*

*The Library will take the necessary steps to catalog the inventoried materials to provide on-line access to those materials to the public and staff by June 30, 2010. The Library will consult with the Facilities Maintenance staff to increase the partner with other agencies to store/house the materials in a 100% controlled access area under appropriate environmental conditions."*

## APPENDIX C

### CENTRAL PARKING DISTRICT

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**Stockton City Council (SCC)** responded to the 2008/09 Grand Jury Report Case No. 01-08D. This includes the following three findings and six recommendations.

**2008/09 Recommendation #1:** Develop a system of assigning parking spaces on a first-come first-served basis free from political pressure or favoritism influencing the assignments.

SCC response to Recommendation #1: *“The recommendation will be implemented in 90 days.”*

**2008/09 Recommendation #2:** “Develop a backup system for the computer that tracks the automated garages. Have the IT department develop a disaster recovery procedure in the event of a catastrophic failure”

SCC response to Recommendation #2: *“The recommendation will be implemented in 90 days.”*

**2008/09 Recommendation #3:** “Develop a program that allows online applications, payments, and issuance of parking passes to accommodate anticipated future growth.”

SCC response to Recommendation #3: *“The recommendation requires further analysis. The City’s Information Technology Director is now researching software programs to replace the City’s existing financial management software. Central Parking District staff will work with the Information Technology Director to investigate available technology to implement an on-line program that will allow for on-line applications, payments and issuance of parking passes. Staff will work to accomplish this within six months, although*

*the City's process, as well as identifying a funding source, may result in additional time to install the program, train staff to use the new software, etc."*

2008/09 **Finding #1:** "Central Parking District (CPD) has partially implemented this recommendation by performing routine backups to a separate hard drive. Nightly backups to a City of Stockton server have been delayed due to budget constraints. The City anticipates a twelve month delay before the recommendation will be fully implemented."

SCC response to Finding #1: *"The respondent concurs with these two 2008/2009 Grand Jury Report findings. Currently, the Parking District Access System contains two databases, a production database, and a back-up database. This system was designed and implemented by a turn-key provider, Security Integrators. Unfortunately, both databases reside on the same physical hardware and in the event of a hardware failure or worse, all data will be destroyed and most likely will not be recoverable. It is not feasible to back up this data to a City server due to its size and the limitations of the network connection from the Parking District's location; therefore, an alternate suggestion is being proposed.*

Backup:

- A. *Currently the production database is backed up to the back-up database on a weekly basis.*
- B. *Additional Step: Set up process to run automated script to shutdown back-up database, make a copy of the back-up database files, and then restart the back-up database.*
- C. *Additional Step: Set up process to take the files that were created in the previous step, and copy them over to two thumb drives.*
- D. *One thumb drive will be sent through interoffice mail to IT and the other thumb drive will be stored at City Hall.*
- E. *The parking administrator will oversee and create a log to track which keys and backups are offsite.*

Disaster Recovery:

*Currently, the Parking District has maintained a maintenance and support contract with Security Integrators. In the event of a catastrophic event where the Parking District's access system is destroyed, the following events will take place:*

- A. *At a time deemed reasonable to recover from the system failure, the City will contact Security Integrators to prepare and provide the necessary hardware and software to recreate the Parking District's Access System.*

- B. *The City will provide Security Integrators with one of the available weekly backups that were stored offsite to recover the data.*

*It is estimated that the implementation of the back-up process will take place on or before 9/30/2009."*

**2008/09 Recommendation #4:** "Ensure nightly backup of critical data to a City of Stockton server."

SCC response to Recommendation #4: *"Implementation is in progress. Please see the alternate backup and disaster recovery procedures described above."*

**2008/09 Finding #2:** "CPD has partially implemented this recommendation. Much of the application, notification and complaint process are available on line. Payments are billed automatically. However, the City of Stockton operates eighteen year-old financial software that has no provision for online payment."

SCC response to Finding #2: *"The respondent concurs with these 2008/2009 Grand Jury Report findings. Central Parking District staff is working with the City's Department of Administrative Services, Information Technology Division regarding online payments. With the exception of utility billing and business licenses, the City does not have the technology in place to accept online payments. Information Technology staff are working toward making online payments available for more of the City's customers, and Miscellaneous Accounts Receivable (where these charges are billed). Due to diminished resources, it is estimated that a system will be in place in approximately two years."*

**2008/09 Recommendation #5:** "Prioritize purchase and implementation of updated financial software that can accept online payments"

SCC response to Recommendation #5: *"Implementation is estimated to take place in approximately two years. Please see the response above. With the current budget environment, the City is not in a financial position to purchase a costly new accounting system."*

**2008/09 Finding #3:** "A large number of unused parking spaces in highly utilized structures exist on any given day. Most unused parking spaces are sold to individuals and government departments who choose not to use them on a particular day. Grand Jurors regularly observed one structure that never operated at greater than 75% capacity"



SCC response to Finding #3: *“The respondent concurs with this 2008/2009 Grand Jury Report finding. The Central Parking District is in the final stages of negotiating a consultant scope of services and contract to prepare an update to the parking master plan for downtown. As part of that study, the consultant will be surveying all Central Parking District and private parking facilities and lots in the downtown study area for an updated count of the parking that is available and the utilization patterns and occupancy rates. The consultant will be working with the Central Parking District and City staff and downtown stakeholders to develop recommendations for more efficient use and management of existing parking resources, and to plan for future facilities. Initial parking surveys are expected to begin in September 2009.”*

**2008/09 Recommendation #6:** “Evaluate the number of sold spaces and the number of occupied spaces within all parking structures to maximize utilization, generate revenue for the City and better serve customers”

SCC response to Recommendation #3: *“Recommendation has been partially implemented.”* Note: See SCC response to Finding #3 above.

## APPENDIX D

### SAN JOAQUIN DELTA COMMUNITY COLLEGE

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**The San Joaquin Delta Community College Board of Trustees (BOT)** responded to the 2008/09 Grand Jury Report Case No. 01-08B. This includes the following two findings and one recommendation.

**2007/08 Recommendation #1(a):** “The Delta College Board of Trustees to comply with the Brown Act. Further training on the Brown Act to be given to ensure understanding and compliance”

Former BOT response: “*This recommendation is being implemented.*”

**2008/2009 Grand Jury Finding #1:** “The only Brown Act violation observed by Jurors was minor. Meeting agenda were posted 72 hours in advance of the meeting, but not at a location accessible 24 hours a day. The Administration is taking steps to comply”

BOT response to Finding #1: “*We do not agree that there was a Brown Act violation. In addition to physically posting the meeting agendas 72 hours in advance of meetings, the college has had a longstanding practice of posting the meeting agendas on the college website. As such, the agendas are available to members of the public on a 24-hour basis. According to college legal counsel, recent court decisions have confirmed the viability of posting an agenda on a website as conforming to the requirements of the Brown Act. However, in the event that members of the public do not have internet access, the college administration has installed a new bulletin board with a glass window located on the south wall of Atherton Auditorium for the sole purpose of posting board agendas. This action should satisfy any concern that the college is not in compliance with the agenda posting requirements of the Brown Act.*”

**2008/09 Recommendation #1(b):** “Take corrective action for posting Board meeting agenda and Citizen’s Oversight Committee agenda in a location accessible 24 hours a day for the 72 hour period prior to meetings, as required by the Brown Act and subsequent Attorney General opinions”

BOT response to Recommendation #1: *“The recommendation has been implemented. A secure bulletin board for the posting of agendas has been installed in a location that is accessible to the public 24 hours a day. In addition, the agendas will continue to be posted electronically on the college website, which is also accessible on a 24 hour basis.”*

**2007/08 Recommendation #2:** “The Citizens’ Bond Oversight Committee to ensure that all aspects of the Brown Act are adhered to in order to give the public a clear picture of the committees’ workings. The Grand Jury believes that the Brown Act ensures a transparent democracy. The violation of the Brown Act cannot be tolerated”

Former BOT response: “This recommendation has been implemented.”

**2008/2009 Grand Jury Finding #2:** See Finding #1 above.

## APPENDIX E

### STUDENT TRUANCY

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**The Board of Trustees of Lodi Unified School District (LUSD)** responded to the 2008/09 Grand Jury Report Case No. 11-08A. This includes the following three findings and three recommendations:

2008/09 **Finding #1:** “Lodi Unified School District submitted the following truancy report to the California Department of Education (CDE) for fiscal year 2007-2008:

Student enrollment ..... 31,611

Truancy notifications ..... 12,654

**Truancy rate..... 40%**

The district submitted a Truancy Rate of 40% to the California Department of Education. Those interested in truancy levels for school districts rely on this information, as it is posted on the CDE website”

LUSD response to Finding #1: “*The respondent agrees with the finding. Lodi Unified School District report\_ed the truancy rate as 40% to the California Department of Education through the June 2008 Consolidated Application Part I.*”

2008/09 **Finding #2:** “Lodi Unified School District (LUSD) submitted the following truancy report to the State Controller’s Office (SCO) for the fiscal year 2007-2008:

Student enrollment..... 31,611

Truancy notifications..... 6,624

**Truancy rate..... 21%**

Initial notices of truancy reported to the State Controller’s Office are reimbursable under state mandated cost programs. LUSD reported a Truancy Rate of 21% to the SCO, which resulted in a potential claim of \$114,462 for State funds”

LUSD response to finding #2: *"The respondent agrees with the finding. Lodi Unified School District submitted a truancy report to the State Controller's Office for 2007-08 fiscal year of 21%."*

2008/09 **Finding #3:** "The accurate truancy numbers, prepared by the Child Welfare and Attendance Advisors (CWA) for each school, were not accessed by the Educational Support Services (ESS) staff in time for inclusion in the Consolidated Application Part I in June 2008. Therefore a clerical error made in the ESS office resulted in an inaccurate truancy rate reported on the Consolidated Application"

LUSD response to Finding #3: *"The respondent agrees with the finding. Educational Support Services Department responsible for submission of truancy rates in the Consolidated Application did not access the correct rates as generated by the Child Welfare and Attendance Department. ESS staff made a clerical error that resulted in the inaccurate rate reported on the June 2008 Consolidated Application."*

2008/09 **Recommendation #1:** "Lodi Unified School District to correct the inaccurate truancy reports made for the 2007-2008 fiscal year"

LUSD response to Recommendation #1: *"The recommendation has been implemented. The June 2008 Part I Consolidated Application was re-submitted on June 9, 2009 with the corrected truancy data obtained from the Child Welfare and Attendance Department."*

2008/09 **Recommendation #2:** "Lodi Unified School District work with its Technology Department reorganize the manner of reporting truancy information"

LUSD response to Recommendation #2: *"Submission of truancy data will become technology based during the 2009-10 school year through two software systems being implemented in the school district. A new student information system, eSchools, has the capability of generating reports of truant students from attendance information inputted at the school sites. Child Welfare and Attendance officers working with school attendance clerks will generate lists of truant students from the system in a timely manner, including generating parent letters. The data can also be accessed centrally for submission to state agencies."*

*As this student information is in the first year of implementation, central office staff will monitor implementation of the procedures associated with the new system."*

*Also in the 2009-10 school year, the district will implement CalPADS, California Longitudinal Pupil Achievement Data System. This system will*

*require the district to submit data as well as other data into this system that is accessible to the State of California. Many kinds of data will be submitted to the State Department of Education through the system. It seems logical to predict that use of this system will modify the submission of the Consolidated Application and the data submitted throughout the school year through CalPADS will also be used for the Consolidated Application. This will standardize submission by both the Educational Support Service Department and Child Welfare and Attendance.*

*The key to a successful implementation and use of both systems will be continuous training and monitoring for the accuracy and proper submission.*

*The Director of ESS, Technology and the Coordinator of Child, Welfare and Attendance met with the Associate Superintendent to discuss the Grand Jury findings and develop a plan for organizing the manner of reporting truancy information with the new student information system and state data system.*

*Additional staff from technology met with the ESS, CWA and Technology Administrators to discuss the truancy reporting feature of eSchools and how it interfaces in Child Welfare and Attendance advisors responsibilities."*

**2008/09 Recommendation #3:** "Lodi Unified School District accurately report truancy data to state agencies and to the public"

*LUSD response to Recommendation #3: "ESS staff and CWA have become aware of the need of submitting the same accurate data and did so for the June 2009 Consolidated Application, Part I. Regardless of the level of implementation of data systems to submit truancy rates, Lodi Unified School District staff is dedicated to the accurate submission of truancy data to all agencies and the public. Lodi Unified School District appreciates the guidance of the Grand Jury and agrees with all finding and recommendations. All staff desire to give state agencies the accurate data and rates and look forward to data systems assisting in the task. All staff members have become aware of the importance of reporting accurate and complimentary data to agencies and finally to the public."*

**The Board of Trustees of Stockton Unified School District (SUSD)** responded to the 2008/09 Grand Jury Report Case No. 11-08B. This consisted of the following three findings and two recommendations:

**2008/09 Finding #1:** "Stockton Unified School District submitted the following truancy report to the California Department of Education (CDE) for fiscal year 2007-2008:

Student enrollment ..... 38,322

Truancy notifications ..... 4,521

**Truancy rate..... 11.8%**

The District submitted a Truancy Rate of 11.8% to the California Department of Education. Those interested in truancy levels for school districts rely on this information, as it is posted on the CDE website”

SUSD response to Finding #1: “*The respondent agrees with the finding. The recommendations has been implemented with corrections to the inaccurate reporting on the 2007-2008 Consolidated Application made and submitted to the CDE on March 17, 2009. The data pulled from the Truancy Reporting report was for notifications of habitual truancy rather than initial notifications of truancy as requested in the Consolidated Application.*”

2008/09 **Finding #1(a):** “Stockton Unified School District (SUSD) submitted the following truancy report to the State Controller’s Office (SCO) for the fiscal year 2007-2008:

Student enrollment..... 38,322

Truancy notifications..... 18,909

**Truancy rate..... 49%**

Initial notices of truancy reported to the State Controller’s Office are reimbursable under state mandated cost programs. SUSD reported a Truancy Rate of 49% to the SCO, which resulted in a claim of \$326,747 for State funds”

SUSD response to Finding #1a: “*The respondent agrees with the finding. The recommendation has been implemented. SUSD Information Services pulls the truancy data from the student information system and issues truancy notices to parents and guardians. The data reported for mandated cost reimbursement is for the notification of initial truancy which is the correct method of reporting.*”

2008/09 **Finding #2:** “The data for the report to CDE came from the Information Services Department truancy letter database. After a review of the Consolidated Application, it was evident the number of initial truancy notifications reported to the CDE was incorrectly reported by SUSD”

SUSD response to Finding #2: “*The respondent agrees with the finding. The data pulled from the Truancy Reporting report was for notifications of habitual truancy rather than initial notifications of truancy as requested in the Consolidated Application.*”

2008/09 **Recommendation #1:** “Stockton Unified School District to correct the inaccurate reports made for the 2007-2008 fiscal year”

SUSD response to Recommendation #1: “.....the recommendation has been implemented and the corrections to the 2007-2008 Consolidated Application were made and submitted to the California State Department of Education on March 17, 2009.”

2008/09 **Recommendation #2:** “Stockton Unified School District to accurately report truancy data to state agencies and the public”

SUSD response to Recommendation #2: “.....the recommendation has been implemented as evidenced by the submission of accurate truancy data reporting on the 2008-2009 Consolidated Application.”

**The Board of Trustees of Tracy Unified School District (TUSD)** responded to the 2008/09 Grand Jury Report Case No. 11-08B. This includes the following three findings and three recommendations:

2008/09 **Finding #1:** “Tracy Unified School District submitted the following truancy report to the California Department of Education (CDE) for fiscal year 2007-2008:

Student enrollment ..... 17,235

Truancy notifications ..... 3,918

**Truancy rate..... 22.73%**

The district submitted a Truancy Rate of 22.73% to the California Department of Education. Those interested in truancy levels for school districts rely on this information, as it is posted on the CDE website.”

TUSD response to Finding #1: “TUSD agrees with finding one”

2008/09 **Finding #2:** “Tracy Unified School District (TUSD) submitted the following truancy report to the State Controller’s Office (SCO) for the fiscal year 2007-2008:

Student enrollment..... 17,235

Truancy notifications..... 1,922

**Truancy rate..... 11%**



Initial notices of truancy reported to the State Controller's Office are reimbursable under State mandated cost programs. TUSD reported a Truancy Rate of 11% to the SCO, which resulted in a potential claim of \$33,212 for State funds"

TUSD response to Finding #2: "TUSD agrees with finding two."

2008/09 **Finding #3:** "The truancy numbers that were submitted were compiled by attendance clerks from each school that reported. The numbers were given to Clear Vue, an outside consultant, for subsequent reporting to the state agencies.

Nine of the district's schools submitted truancy numbers to the consultant and eight schools did not. Therefore, truancy information from the eight schools never reached state agencies. This confusion and lack of oversight led to under-reporting to both the CDE and the SCO."

TUSD response to Finding #3: "TUSD agrees with finding three."

2008/09 **Recommendation #1:** "Tracy Unified School District to correct the inaccurate truancy reports made for the 2007- 2008 fiscal year"

TUSD response to Recommendation #1: *"The recommendation has been implemented. The 2007-2008 reports have been corrected and corrected reports have been sent to both the CDE and the SCO. Reports are enclosed."*

2008/09 **Recommendation #2:** "Tracy Unified School District Department of Student Services reorganize the manner of reporting truancy information"

TUSD response to Recommendation #2: *"The recommendation has been implemented. Beginning in March 2009 all truancy report information is generated from the Student Services Office and reported to both Clear Vue Consultant Company for mandated reporting (Clear Vue then reports data to CSO) and CDE."*

2008/09 **Recommendation #3:** "Tracy Unified School District accurately report truancy data to state agencies and to the public"

TUSD response to Recommendation #3: *"The recommendation has been implemented. All data generated through the new system is reporting to the public agencies and if requested, to the public."*

## APPENDIX F

### STOCKTON UNIFIED SCHOOL DISTRICT

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**Stockton Unified School District (SUSD)** responded to the 2008/09 Grand Jury Report Case No. 01-08E. This includes the following six findings and seven recommendations.

2008/2009 **Finding #1:** “This recommendation has been implemented. The Superintendent now gives all consultant contracts to the Board for approval. The Board receives professional, well-prepared documents containing adequate information to make informed decisions.”

SUSD response to Finding #1: “*Accepted the finding by a vote of 7-0.*”

2008/09 **Recommendation #1:** “SUSD Trustees reduce the dollar cap that can be spent for non-instructional and administrative consultants without Board approval. Trustees or a committee of Trustees review consultant contracts to ensure there is a need that employees can not fill and that a meaningful product will be produced.”

SUSD response: “*The recommendation requires further analysis.*”

2008/2009 **Finding #2:** “This recommendation has been implemented. SUSD retained the Fiscal Crisis and Management Assistance Team who conducted an audit of all operations and prepared a 195 page report. Most facets of SUSD operations received high ratings. However, the section of the audit dealing with categorical funds did not. Section PA 5.6 of the report contains 9 findings and 12 recommendations for improvement of SUSD’s management of categorical funds. The conclusion of the section reads simply: “Standard Implemented: Not Implemented, Rating: 0.” The range of ratings are from 0 (lowest) to 10 (highest).”

SUSD response to Finding #2: “*Accepted the finding by a vote of 6-1.*”

2008/09 **Recommendation #2(a):** "SUSD Trustees conduct a thorough, independent audit of restricted (categorical) funds received from State and Federal sources with extra emphasis placed on AB1113 funds. In addition, an audit of purchases made by management be conducted on an annual basis until public confidence is restored."

SUSD response to Recommendation #2(a): *"This recommendation is being implemented at this time."*

2008/09 **Recommendation #2(b):** "The Board of Education and Superintendent thoroughly review the March 2009 Fiscal Crisis & Management Assistance Team (FCMAT) report and implement the recommendations"

SUSD response to Recommendation #2(b): *"Accepted the finding by a vote of 6-1."*

2008/2009 **Finding #3:** "This recommendation is being implemented. The Superintendent is providing concise, reliable data to the Board of Education."

SUSD response to Finding #3: *"Accepted the finding by a vote of 6-1."*

2008/09 **Recommendation #3:** "SUSD Trustees carefully review the budget and question policy decisions made by SUSD management to ensure the District is being run in a prudent, economical, and legal manner"

SUSD response to Recommendation #3: *"This recommendation requires further analysis, which will take place as the Board and staff prepare the 2008-2009 budget."*

2008/2009 **Finding #4:** "This recommendation could easily be implemented, should district-wide fund raising occur in the future. SUSD staff found the Bylaws for SUSD 1852, a nonprofit corporation, created for the 150th anniversary celebration. It was inexcusable for the previous Superintendent and Board not to reactivate and use an existing foundation when fundraising for the Celebrity Waiter Luncheon."

SUSD response to Finding #4: *"Accepted the finding by a vote of 6-1."*

2008/09 **Recommendation #4:** "SUSD Trustees review and approve plans for future District-wide fund raising activities. The Grand Jury recommends creation and use of an independent foundation for fund raising activities."

SUSD response to Recommendation #4: *"The recommendation has not been implemented, but will be implemented this fiscal year."*

2008/2009 **Finding #5:** "This recommendation has been implemented. SUSD has a solid management team in place. The Superintendent has vision and is a strong proponent of improving student outcome. He is looking at all facets of SUSD and implementing necessary changes."

SUSD response to Finding #5: *"Accepted the finding by a vote of 6-1."*

2008/09 **Recommendation #5:** "SUSD Trustees and management work as a team to accomplish common objectives and not lose sight of the District's mission which is to educate the children of the District."

SUSD response to Recommendation #5: *"This recommendation has been implemented."*

2008/2009 **Finding #6:** "This recommendation has been implemented. The Board established a Citizen's Bond Oversight Committee to oversee both Measure C and Measure Q Bonds. The Superintendent has proposed numerous changes to proposed bond projects. Current plans for high school renovation may be replaced with plans to build new high schools."

SUSD response to Finding #6: *"Accepted the finding by a vote of 6-1."*

2008/09 **Recommendation #6:** "The Board of Trustees manage the recent bond measure"

SUSD response to Recommendation #6: *"This recommendation has been implemented."*

## APPENDIX G

### SAN JOAQUIN REGIONAL TRANSIT DISTRICT

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**San Joaquin Regional Transit District (RTD)** responded to the 2008/09 Grand Jury Report Case No. 01-08A. This includes the following five findings and one recommendation.

2008/2009 **Finding #1:** “Itemization of consultant deliverables continues to be inadequate.”

*RTD response to Finding #1: “RTD does not agree with this finding.” RTD finds it difficult to respond to this Finding without clarification of specific inadequacies noted by the Grand Jury.*

*RTD believes that the itemization of consultant deliverables is adequate. RTD would like to point out that some consultants who provide on-site work, such as labor negotiations, may not provide detailed itemization of their deliverables with their invoices for several reasons, one of which is that RTD staff participates in their meetings and observes the work that they do (their deliverables) first hand.*

*RTD believes that Finding #2 (#1 in this appendix) contradicts Finding #1 (not referenced in this appendix), which states that RTD “has implemented a process to assure that deliverables are received and correctly invoiced before payment is made.*

*RTD also believes that its requirements for itemization of consultant deliverables are sound, and that fact is demonstrated by RTD’s consistently “clean” audit findings, conducted annually and s semi-annually by our state and federal funding agencies. In fact, RTD has received every year, for the past five years, an award from the Government Finance Officers Association (GFOA) for “Excellence in Comprehensive Financial Reporting.”*

2008/2009 **Finding #2:** “When questioned about the potential improper use of RTD funds for employee gifts, RTD stated that “Personal use would be a use that does not in any way relate to the business or work of RTD, and would be for the non-business benefit of an individual, and consequently have no business purpose.” However, movie tickets

continue to be purchased with RTD funds as gifts for employees and to recognize birthdays.”

RTD response to Finding #2: “RTD agrees with this Finding, but disagrees with the conclusions raised by the Grand Jury in this Finding.

*The RTD Board and Management believe that RTD is a successful organization because of its employees. During this time of statewide budget challenges, RTD cannot afford to give across the board raises to its hard working employees; however, RTD chooses to provide two movie passes (which are purchased at a discount) to its employees annually as a low-cost acknowledgement of the role each employee plays in making RTD a success. Employees look forward to this annual acknowledgment and express appreciation for the opportunity to enjoy an evening out with their family.*

*It has been the practice of RTD to reward employees and show RTD’s appreciation for their hard work and dedication. This, we believe, has improved employee morale, performance, attendance, retention, and therefore customer service. It is for these reasons that the RTD Board continues to support the purchase of movie tickets and other employee incentives.*

*When the Grand Jury asked RTD to define “personal use,” RTD requested legal counsel’s advice concerning the definitions of “personal use” as used in this Request. RTD was informed by counsel that “personal use” would be a use that does not in any way related to the business or work of RTD, and would be for the non-business benefit of an individual, and consequently have no business purpose. An example of this would be an employee using a P-card for purposes of purchasing a meal that was not work-related and would be for the personal benefit of the employee. This would not be authorized and could result in the employee having the P-card removed from his/her possession or facing other employment sanctions. Consequently, our legal counsel advised us that employee incentives or recognitions given to our employees in appreciation of a “job well done” would qualify as “personal use”.*

2008/2009 **Finding #3:** “A part-time labor relations consultant, being paid approximately \$6,000 per month, is still under contract for his fifth consecutive year”

RTD response to Finding #3: “RTD agrees with this Finding. The labor relations consultant in question was asked by both labor and management to continue facilitating labor management meetings that have worked to build a better partnership between the RTD and ATU leadership teams. Since RTD hired this labor relations consultant, there have been no work stoppages or pickets, as there were in the past.

*In additions, the ATU and RTD leadership teams decided to use this labor relations consultant to facilitate discussions between the parties, with the objective of reaching a cooperative settlement for a replacement collective*

*bargaining agreement (set to expire June 30, 2009) and thus avoid the excessive legal fees and costs that both parties have incurred in the past with protracted negotiations, mediations, and arbitrations.*

*The RTD staff and Board have looked at and evaluated this consultant's contract regularly to consider the needs of the agency and the costs of the service. RTD recognizes that to hire a labor-relations specialist with the same level of skills and experience full-time would cost far more than this part-time contract. In fact, some RTD Board Members believe that hiring this consultant has been one of RTD's better investments."*

**2008/2009 Finding #4:** "Budgeting excessive amounts for expenses, such as legal services (\$960,000) and two security staff (\$200,000), may influence the entire budget process and could result in unnecessary increased fares and cuts in services."

RTD response to Finding #4: *"RTD strongly disagrees with this finding. RTD does not budget excessive amounts for legal and security services, but rather sets an annual budget for all services based on carefully analyzed projected and historic costs. RTD's line item budget for legal expenses defines the extent of expenses RTD can incur for the fiscal year. "Not-to-exceed" and multi-year contracts do not translate into annual expenditures, but rather individual contractual limits. In the end, expenses are paid as incurred and are limited by the annual budget."*

**2008/2009 Finding #5:** "A new police pursuit vehicle was purchased in 2006 and was never utilized. In 2009, the vehicle, with 20 miles on the odometer, was provided to the Stockton Unified School District in exchange for police/security services at the Downtown Transit Station."

RTD response to Finding #5: *"RTD agrees with this finding, but would like to clarify and restate some information previously provided to the Grand Jury.*

- *The police vehicle was actually received in 2007, not 2006.*
- *The Stockton Unified School District (SUSD) officers will provide service not only at Downtown Transit Center, but also throughout RTD's service area, including the malls and local high schools.*
- *The value of the police services SUSD will provide to RTD is equivalent to the initial cost of the police vehicle, so there is no loss of value to RTD."*

**2008/2009 Recommendation #1:** "The RTD Board commit to greater oversight of expenditures and become more involved in the financial workings of RTD"

RTD response to Recommendation #1: *"This Recommendation has been implemented. RTD agrees with this Recommendation in that it is the role of the Board to provide oversight of financial transactions. RTD's Board continues to review and adopt all audits, special reviews, contracts outside of the GM's authority, grant application, and other significant financial transactions.*

*RTD's Board is active, well –informed, and diverse. Board Members are well educated and experienced in community and business affairs. Three RTD Board Members are former Stockton City Council Members, and two of the three have served as Vice Mayor. One of those two also held a varied of administrative and leadership positions in the Stockton Unified School District. One Board Member held an executive position with the Chamber of Commerce. One is an Orientation and mobility Specialist and holds two Master's Degrees. While RTD Board Members cannot be elected officials when they serve on the RTD Board, new members are often recruited because of their recent experience in public office. The Board Members have a diverse set of skills, experience, and knowledge, including business, finance, local government, insurance, architecture, mobility and ADA issues, labor negotiations, pension plans, and much more.*

*The RTD Board has established and effectively uses standing sub-committees. These include: Facilities, Finance and Audit, Personnel, Retirement Board, and City/County/Transit Liaison Committees.*

*RTD staff members work diligently to keep the RTD Board familiar with the financial workings of RTD. Over the last year, RTD staff repeated a series of information presentations for its Board and members of the public who attend RTD Board Meetings. These information presentations proved an in-depth look into individual departments within RTD."*



## APPENDIX H

### SAN JOAQUIN COUNTY HUMAN RESOURCES DEPARTMENT

*The numbering system for the findings and recommendations below differ from the 2008/09 Grand Jury report. The 2009/10 decided to number the findings and recommendations sequentially for clarity.*

**The San Joaquin County Board of Supervisors (BOS)** responded to the 2008/09 Grand Jury Report Case No. 09-08. This consisted of the following four findings and four recommendations:

2008/09 **Finding #1:** “A number of department heads and supervisors are not complying with Civil Service Rule 13 as outlined in the San Joaquin County Employee Performance Guidelines. Rule 13 mandates employee performance evaluations be completed at least annually for permanent Classified Service employees.

BOS Response to Finding #1: No response to finding.

2008/09 **Recommendation #1:** “Enforce annual performance evaluation review policy for all Classified Service position county employees, and by all County departments, as outlined in the San Joaquin County Employee Performance Guidelines, Civil Service Rule 13.”

BOS Response to Recommendation #1: “*The recommendation has not yet been implemented but should be by the end of calendar year 2009. For the purposes of this response, enforcement is defined as strengthening the process through monitoring, reporting and follow-up to reinforce the requirements of Civil Service Rule 13.*

*Currently, departments have access to information that provides when an employee is due for a performance evaluation. This is a Human Resource Management System (HRMS) report that can be prepared by departmental staff that have access to the HRMS system. This report is basically a reminder that a performance evaluation is due; however, it does not document whether the evaluation was completed. Several tools are being developed to assist County Department Heads in meeting the requirements of Civil Service Rule 13. The tools under development will provide the departments a means to monitor compliance and review the status of performance evaluations within their departments.*

*In addition, the Human Resources Division will take a more active role in following up with Departments concerning the status of employee evaluations to reinforce the importance of timely performance evaluations, and to comply with Civil Service Rule 13."*

2008/09 **Finding #2:** "San Joaquin County Employee Performance Guidelines lack mandates for performance evaluations for Exempt-Position employees."

BOS Response to Finding #2: No response to finding.

2008/09 **Recommendation #2:** "San Joaquin County employee performance guidelines be amended to include annual performance evaluation reviews for all Exempt-Position employees."

BOS Response to Recommendation #2: *"The recommendation will not be implemented. San Joaquin County exempt staff are not covered by Civil Service Rule 13. The Human Resources Director agrees that regular performance reviews constitute a best practice related to human resource management. However, we are not in agreement that there be a mandate on how performance reviews are delivered to exempt staff."*

*It is our expectation that there should be broader flexibility in the area of performance feedback for the County's exempt, at-will employees. Exempt employees are specifically not covered by the Civil Service Rules; therefore, Civil Service Rule 13 on Performance Evaluations should not be applicable to exempt status employees. The majority of exempt employees are Department Heads and Assistant Department Heads who receive feedback in various forms that are not exclusive to a written performance evaluation. Because performance feedback can be provided in various ways, Department heads and others who evaluate exempt employees should retain the greatest flexibility in how feedback is provided (i.e. conferences and meetings, merit increases, memos and letters of recognition, commendation, and appreciation, and formal written performance reviews).*

*The method that performance feedback provided for exempt employees should be left to the discretion of those responsible for evaluating exempt employees. In recognition that performance feedback can be a useful tool to use in meeting organizational goals, Human Resources will recommend and encourage regular performance feedback to exempt staffing the manner the reviewer thinks is appropriate."*

2008/09 **Finding #3:** “The County Human Resources software currently lacks the capacity for tracking compliance of performance evaluations.”

BOS Response to Finding #3: No response to finding.

2008/09 **Recommendation #3:** “The Director of Human Resources monitor and strictly enforces compliance of the employee performance review policy by utilizing the enhanced features of the Human Resources software.”

BOS Response to Recommendation #3: *“The recommendation has not been implemented, but is currently in process and should be in place by the end of calendar year 2009. For the purposes of this response, enforcement is defined as strengthening the process through monitoring, reporting, and follow-up to reinforce the requirements of Civil Service Rule 13.*

*Human Resources staff will be able to monitor the status of performance evaluations with new tools that are being developed to assist in monitoring the status of employee performance evaluations. Human Resources staff are currently working with the Information Systems Division to implement a feature on the Executive Dashboard (a management tool) to assist department heads with monitoring performance evaluation compliance in accordance with Civil Service Rule 13. The Director of Human Resources will have countywide access to this tool to monitor compliance at a departmental level and to follow up with Department Heads concerning the status of performance evaluations within their departments.”*

2008/09 **Finding #4:** “The Human Resources Department is in the process of implementing software enhancements to record dates and status of all employee performance reviews.”

BOS Response to Finding #4: No response to finding.

2008/09 **Recommendation #4:** “The current San Joaquin County Performance Report Form be revised to provide comprehensive assessments of goals met; indicators of current performance; and to establish objectives for the forthcoming review period.”

BOS Response to Recommendation #4: *“The recommendation requires further analysis. Currently the County is comprised of twenty-nine County departments. Each department has a specific mission as to the provision of services to San Joaquin County residents. The range of services includes health and human services, public safety services, agricultural services, public health and environmental health services, public works, and much more. As a result,*

*staffing in our County departments is as varied as the services provided. The current standard County evaluation form provides a template for County departments to use. Many departments use the form as a starting point and have tailored their evaluation form to meet the specific functions performed by the department.*

*The form is intentionally broad and open to allow departments to identify the key elements for review based on the employee's role, function, and specific duties. We plan to review the form to determine if improvements can be made to enhance it as a performance evaluation tool. Further analysis is required to seek input from County departments on the current form to determine if changes to the current standard performance evaluation form would accommodate the multiple and varied needs of our County departments. This analysis should be complete within the next six months.*

*In addition, the importance of maintaining compliance with Civil Service Rule 13 will be emphasized in the Human Resources Leadership Academy that all supervisory and management staff are required to attend."*

## APPENDIX I

### CITY OF STOCKTON NEIGHBORHOOD SERVICES/CODE ENFORCEMENT

**The Stockton City Council (SCC)** responded to the 2008/09 Grand Jury Report Case No. 05-08. This includes the following 11 findings and nine recommendations.

2008/09 **Finding #1:** "Citizens can file a complaint with CED in person, via the internet, telephone and fax. The city website features the 'Ask Stockton' link and inquiries can be made there as well (<http://user.govoutreach.com/stockton/faq.php>). In November 2008, a CED employee was given the responsibility of answering questions from the public, responding to requests from real estate agents and delivering escrow payoff demands."

SCC response to Finding #1: ". . . *The respondent agrees with this finding.*"

2008/09 **Finding #2:** "When accessing CED's contact information through the City of Stockton website, users must click on three links. The public would be better served if the website featured a direct link on the home page."

SCC response to Finding #2: "*The respondent agrees with this finding. A link to the Police Department's neighborhood services (Code Enforcement Section has been added to the City of Stockton's home page at [www.Stocktongov.com](http://www.Stocktongov.com).*"

2008/09 **Finding #3:** "Other California cities, such as Sacramento, have internet information systems that allow the public to search by category, property type, case number or address. Stockton code enforcement representatives agree that such a website feature would save time and money."

SCC response to Finding #3: "*The respondent partially agrees with this finding. Other jurisdictions may have internet access for public searches; however, the conclusion that such a feature would save time and money has not been substantiated at this time.*"

2008/09 **Finding #4:** "On numerous occasions, CED has not been timely in notifying all parties involved in property sale transactions of the pending code citations. Prior to closing escrow, the escrow agent requests a payoff demand from CED. When CED responds to this request, a code enforcement officer makes a return visit to the property. If any new violations are found, the escrow holder is notified. This has caused delays in closing escrow and subsequent post-transaction problems for new property owners."

SCC response to Finding #4: *"The respondent partially agrees with this finding. What is not covered in the finding is that the realtors frequently fail to correct obvious or known violations prior to the request for a payoff demand. Existing code violations that have been recorded are available through the Neighborhood Services Office or the County Recorder's Office. Realtors for the seller and/or buyer should encourage the seller to correct known violations prior to the time of the sale, which would ensure delays would be kept to a minimum."*

2008/09 **Finding #5:** "Properties are often purchased with pending code citations and without a lien having been recorded. Citations remain on the property and the code enforcement process continues as if property ownership had not changed. Associated fees for the violations continue to be the responsibility of the original owner and are not assessed to the new owner. However, the new owner remains responsible for correcting the violations."

SCC response to Finding #5: *"The respondent agrees with this finding. Properties can be purchased prior to a lien being recorded. This is due to the legal requirement that the City give the property owner a ten day notice of its intent to record the violations. The notice provides the owner time to appeal having the lien recorded. If the property sells during this ten day period, the City would not be aware of it because payoff demands are initiated from recorded liens. In those instances, where the timing of the sale occurs before the recording of the lien, a new notice is issued to the buyer of the property for the violations. Fees and fines not recorded and/or paid through escrow are not charged to the buyer."*

2008/09 **Finding #6:** "The Grand Jury has found that the new owner of the property mentioned in one complaint has not accepted the responsibility to remedy the violations. Reactionary complaints are often generated against CED as a result of fees continuing to accrue when property owners do not comply."

SCC response to Finding #6: *"The respondent agrees with this finding."*

2008/09 **Finding #7:** "Stockton is one of only four U.S. cities utilizing the newly-developed Mortgage Electronic Registration System (MERS). Nationwide mortgage holders list foreclosed properties, with 2.2 million registered properties. Stockton code enforcers have access to this registration system. The system is designed to give information on foreclosed properties and to provide users with the name of a contact person."

SCC response to Finding #7: *"The respondent agrees with this finding. Stockton was selected as one of four cities to test the Mortgage Electronic*

*Registration System. The Mortgage Registration System is now available to cities nationwide."*

2008/09 **Finding #8:** "The CED is now engaging in outreach efforts, including the proactive publishing and distribution of Q&A brochures to realtors and escrow agents during site specific contacts and scheduled presentations."

SCC response to Finding #8: *"The respondent agrees with this finding."*

2008/09 **Finding #9:** "When efforts are being made for compliance, the CED will often allow the property owner an extension of time to complete the required work before assessing fines."

SCC response to Finding #9: *"The respondent agrees with this finding."*

2008/09 **Finding #10:** "The CED initiated efforts to equip CEO [Code Enforcement Officer] vehicles with electronic equipment for portable computer access to expedite the transmission of reports to the CED office. Not all vehicles have been modified. When computer access is available, the Grand Jury found some CEOs do not use it."

SCC response to Finding #10: *"The respondent partially agrees and disagrees with this finding. We have no information from employees that they are not using the computers as intended. However, based on the Grand Jury report steps have been taken to ensure the new equipment is utilized in the future. As of August 2009, computers had been installed in all of the vehicles used by the code enforcement officers. All code enforcement personnel have been trained on the use of the computers and will be required to use them in the field."*

2008/09 **Finding #11:** "Some California cities use Redevelopment Agency Funding (RDA) or other funding methods outside of the General Fund to finance supplemental police services for code enforcement."

SCC response to Finding #11: *"The respondent agrees with this finding."*

2008/09 **Recommendation #1:** "Continue efforts to improve the level of CED outreach to residents through community meetings, improved communication and by making sincere effort to promote cooperation and fairness in addressing code enforcement violations."

SCC response to Recommendation #1: *"This recommendation has been implemented, as the content of the recommendation has been in place for several years. Neighborhood Services is represented at several regularly-scheduled neighborhood/community meetings. In addition, staff responds to all requests for speakers at service clubs, association meeting, and various business staff meetings. This practice will continue as recommended by the Grand Jury to promote cooperation and fairness in addressing code enforcement issues."*

**2008/09 Recommendation #2:** "Expand CED outreach publications to inform buyers of the responsibility to correct existing code violations on the property."

SCC response to Recommendation #2: *"The recommendation will be implemented by December 31, 2009. Neighborhood Services has published a variety of informational brochures and will continue to do so as appropriate topics are identified and budgetary resources allow. Property-buyer responsibility will be the subject of our next publication."*

**2008/09 Recommendation #3:** "Develop a multi-disciplinary Graffiti Abatement / Community Anti-Blight Task Force that would combine law enforcement, code enforcement and public works staff into one unit that could be funded with Redevelopment Agency funds."

SCC response to Recommendation #3: *"Implemented. This recommendation has been in place since April 2008. A multi-disciplinary group was formed to address graffiti/blight issues and solutions. It is comprised of staff from several sections of the Police, Finance, Public Works, and Parks Departments, and also the County Probation Department."*

**2008/09 Recommendation #4:** "Add a search feature to the existing website to allow the public to find an active code enforcement case for a specific address."

SCC response to Recommendation #4: *"Not implemented. However, the Information Technology Division of the Administrative Services Department is working on a complete revision of the City's web site. Once the new web site is deployed, Information Technology will investigate the benefits of adding this recommended feature. A feasibility study is estimated to begin by July 2010."*

**2008/09 Recommendation #5:** "Post a direct link to code enforcement 'contact information' on the home page of the City of Stockton's website."



SCC response to Recommendation #5: *"Implemented. A link to the Police Department's Neighborhood Services Section has been added to the City of Stockton's home page. In addition, business address and telephone contact information has been included on the header of the Neighborhood Services page."*

**2008/09 Recommendation #6:** "Improve CED service to the public by providing timely information to reduce escrow delays and post-transaction concerns for new property owners."

SCC response to Recommendation #6: *"Implemented. This recommendation is part of Neighborhood Services ongoing goals towards improving community service."*

**2008/09 Recommendation #7:** "Enforce CED procedures to initiate recording of property liens as promptly as possible, so parties involved with a property sale become aware early in the course of the transaction."

SCC response to Recommendation #7: *"Implemented. This recommendation is part of Neighborhood Services ongoing goals towards improving community service."*

**2008/09 Recommendation #8:** "Ensure access regulations are followed by CEOs when entering for property inspection."

SCC response to Recommendation #8: *"Implemented. This recommendation is part of Neighborhood Services ongoing goals towards improving community service, and will continue as suggested by the Grand Jury. A responsibility of the Code Enforcement Field Manager and the Code Enforcement Supervisor is to audit the work of the code enforcement officers to ensure they follow procedures."*

**2008/09 Recommendation #9:** "Complete the installation of CED hardware for remote computer operations in vehicles not yet equipped."

SCC response to Recommendation #9: *"Implemented. This recommendation is consistent with our goal to have computers in all code enforcement vehicles. As of August 2009, computers had been installed in all of the vehicles used by the code enforcement officers. All code enforcement personnel have been trained on the use of the computers and will be required to use them in the field."*

## Section VI

Presentations .....	179
Site Visits .....	180

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# *Activities*

## **Presentations**

San Joaquin County Sheriff-Coroner  
Steve Moore

San Joaquin County Public Defender  
Peter Fox

San Joaquin County Administrator  
Manuel Lopez

First 5 San Joaquin  
Lani Schiff-Ross, Director

San Joaquin County Office of Emergency Services  
Ron Baldwin, Director

San Joaquin County Public Works  
Thomas Flinn, Director  
Mahmoud Saqqa, Senior Bridge Engineer

San Joaquin County Planning Division  
Kerry Sullivan, Community Development Director  
Chuck Farano, Community Development Counter Manager

San Joaquin County Registrar of Voters  
Austin Erdman

Stockton Unified School District  
Steve Vaczovsky, Interim Superintendent

Lodi Unified School District  
Cathy Nichols-Washer, Superintendent

East Bay Municipal Utility District  
Michael Wallace, Director of Operations and Maintenance  
Alexander Coate, Director of Water and Natural Resources  
Eileen White, Manager of Operations and Maintenance

### **Site Visits**

Mary Graham Children's Shelter

Northern California Youth Correctional Complex –  
O. H. Close Facility  
N. A. Chaderjian Facility

Deuel Vocational Institution

San Joaquin County Jail and Honor Farm

San Joaquin County Juvenile Probation

Lodi Police Department and Jail

Farmington Rural Fire Station

New County Administration Building

Port of Stockton

Stockton Metropolitan Airport

San Joaquin County Office of Emergency Services

Housing Authority of the County of San Joaquin  
Alberta Jackson Administration Building  
Conway Homes  
Sierra Vista

Superior Court Detention Facilities

Lodi  
Manteca  
Stockton  
Tracy