SAN JOAQUIN COUNTY



FINAL REPORT 2007-2008

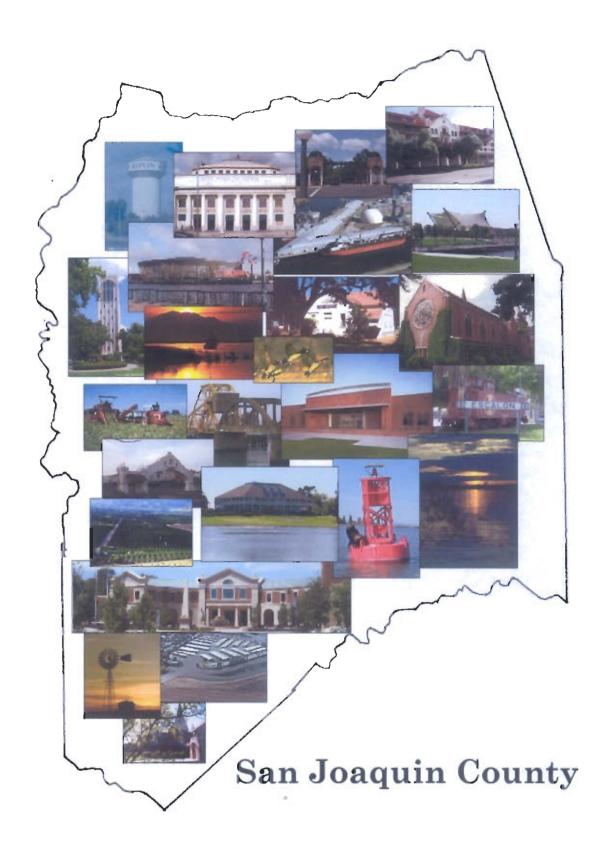
THE SAN JOAQUIN





2007-2008 FINAL REPORT

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2007-2008 SAN JOAQUIN COUNTY CIVIL GRAND JURY REPORT

TABLE OF CONTENTS

_			
L	Letter from Grand Jury Foreman		
L	Letter from Presiding Judge		
F	Roster of Grand Jurors		
F	Photo of Grand Jurors / Membership		
<u>The</u>	Grand Jury Process		
(Organization of the Grand Jury		
5	Structure and Function of the Grand Jury		
(Qualifications		
(Commitment, Selection and Application		
(Complaint Procedure		
(Complaint Form		
(Contact Information		
Law	and Justice		
A	Authority and Objective1		
F	Final Reports Introduction2		
5	San Joaquin County Jail and Sheriff's Office4		
5	Stockton Police Department8		
[Deuel Vocational Institution10		
5	San Joaquin County Juvenile Justice Center12		
<u>Fina</u>	al Reports		
5	San Joaquin Delta Community College (Case No. 12-06)14		
5	San Joaquin County - Exempt Position Hiring (Case No. 02-07)21		
(City of Lathrop (Case No. 03-07)27		
(Central Parking District (Case No. 04-07)30		

City of Ripon (Case No. 05-07)35
Filed Response
Lincoln Unified School District (Case No. 06-07)
San Joaquin Regional Transit District (Case No. 07-07)43
Stockton Unified School District (Case No. 08-07)52
San Joaquin County Animal Control (Case No. 09-07)58
Mary Graham Children's Shelter (Case No. 10-07)70
Follow-Up Reports
City of Stockton Community Development Department
Building Permit Fees (Case No. 01-07A)74
City of Stockton Code Enforcement (Case No. 01-07B)78
San Joaquin County Registrar of Voters (Case No. 01-07C)82
County of San Joaquin / Stockton Metropolitan Airport (Case No. 01-07D)85
San Joaquin County Behavioral Health Services and San Joaquin County
Office of Education (Valley LINCs Program) (Case No. 01-07E)89
San Joaquin County Emergency Medical Services (Case No. 01-07F)92
Speakers97
Site Tours



Grand Jury

County of San Joaquin Courthouse 222 East Weber Avenue-Room 303 Stockton, California 95202 (209)468-3855

June 23, 2008

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

Hon. William J. Murray, Jr.
Presiding Judge of the Superior Court
The Superior Court
222 E. Weber Avenue, Room 303
Stockton, California 95202

Dear Judge Abdallah and Judge Murray:

I am honored to present the 2007-2008 San Joaquin County Grand Jury Final Report. The individual reports that follow were authored and approved by the entire body of jurors. We believe each report is fair and accurate, and that they are valuable to the citizens of our county.

The nineteen Grand Jurors come from all areas of the county and, from diverse backgrounds. In the performance of our obligation to the county, we developed a mutual admiration and respect for each other. Each member contributed significantly to this Report and San Joaquin County has been well served by this dedicated panel of jurors.

This Grand Jury fulfilled its legal mandate to inspect police and detention facilities within the county.

During our term, we received several citizen complaints. When a collective decision was made to take action, cases were assigned to committees for investigation. All reports were reviewed and approved by the Grand Jury. When there appeared to be a conflict of interest, jurors removed themselves from that investigation entirely.

I recognize the many county officials and employees who provided site visits and presentation of county agencies to give us insight into the history, operations and goals of their respective departments. We can be proud of so many trusted elected officials, qualified administrators and dedicated employees of county and city government.

I appreciate the personal involvement of those who brought to our attention the issues they considered to be of concern to their fellow citizens. I also acknowledge those who gave time and testimony to this Grand Jury.

I sincerely thank the members of this Grand Jury for their diligence and commitment. I have enjoyed wonderful support from them and it's great to now be acquainted with these remarkable people.

Each of us received incredible support from our good friend, Judicial and Staff Secretary Trisa Martinez. Many thanks to Chief Deputy District Attorney Scott Fichtner and to County Counsel David Wooten for guidance and legal advice.

It is my honor to be a member of this Grand Jury. Thank you for the opportunity to serve the Court and the citizens of San Joaquin County.

Respectfully submitted,

David Renison

Foreman

2007-2008 San Joaquin County Civil Grand Jury



The Superior Court

222 E. WEBER AVENUE, ROOM 303 STOCKTON, CALIFORNIA 95202 George J. Abdallah, Jr.
Judge of the Superior Court
TELEPHONE
(209) 488-2827

June 12, 2008

The Superior Court of California, County of San Joaquin thanks and commends the 2007-2008 Civil Grand Jurors for their conscientious efforts on behalf of all San Joaquin County citizens. Guided by able leadership of Foreperson David Renison, 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 2007-2008 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 2007-2008 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 2007-2008 Civil Grand Jury. These devoted citizens undertook an ambitious agenda. Their work touches the lives of generations of their fellow citizens. As in years past, the current Grand Jury continued and completed the work of their predecessors thereby assuring their fellow citizens that the San Joaquin County Civil Grand Jury maintains a continuing strong role as an institution of local government.

The time, energy, efforts and commitment of these devoted citizens has and will continue to better the civic life of all San Joaquin County residents. To each member of the 2007-2008 San Joaquin County Civil Grand Jury, for your many accomplishments the Superior Court extends its gratitude and congratulations.

Sincerely,

Hon. George J. Abdallah. Jr.

Judge of the Superior Court and Advisor to the San Joaquin County Grand Juries

· Cludallah

THE COUNTY OF SAN JOAQUIN 2007-2008 GRAND JURY ROSTER



DAVID RENISON Foreman Stockton

RHODESIA RANSOM Vice-Foreperson Tracy

PATRICIA VAN OSS Secretary Lodi

ARCHIE ATWOOD, JR. Stockton

JOHN BAYLEY Stockton

R. DONALD BEHLER Stockton

CAROL "SUE" BOSCH

DARLA BUCKLEY Manteca

JERRELL CROSKREY Stockton

JOHN EDWARDS, II Tracy

GARY GREGG Stockton DON HENKEL

Stockton

GARY KRAHMER

Stockton

PETE MITRACOS

Tracy

Lodi

RICHARD W. ROGERS Stockton

DAVID SIMPSON

DENISE SNIDER

Tracy

ROBERT WHITAKER Stockton

BOB YOUNG Tracy







David Renison - Pete Mitracos - Archie Atwood - Bob Young - Don Behler - David Simpson - John Edwards

John Bayley - Jerrell Croskrey - Daria Buckley - Denise Snider - Patricia Van Oss - Rhodesia Ransom - Gary Gregg - Don Henkel

Gary Krahmer - Carol "Sue" Bosch - Richard Rogers

Bob Whitaker (not shown)

Members of this Grand Jury bring a wealth of experience in the areas of business, real estate, pharmacy, agriculture, teaching, finance, government, utilities, drafting, personnel supervision, accounting, telecommunications and military service.

Weighing more heavily that career backgrounds, they bring the experiences of life that are necessary to be an effective Grand Juror.

Each member of this honorable panel of jurors gave a great deal of time this year to make government more accountable to the people it serves.

Investigations require thoughtful judgment. Assignments must be executed with integrity, and every juror has faithfully and effectively fulfilled the duties of this Grand Jury.



ORGANIZATION OF THE GRAND JURY

The Grand Jury is a part of the judicial branch of government. 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 San Joaquin County Grand Jury is a body comprised of qualified persons drawn from the citizens of the county, who have volunteered or been selected at random, and nominated by a judge of the Superior Court. 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. The Grand Jury is a distinct and separate entity and must establish it own organization and rules of procedure. Any action taken by the Grand Jury must be authorized by 12 of the 19 jurors.

The presiding judge appoints a foreperson to preside over the Grand Jury. Standing committees or ad hoc committees may be formed as the panel decides. An ad hoc committee may be established to consider a subject, which transcends more than one of the standing committees. In addition, the Follow-up committee is primarily responsible for the coordination of internal processes, and for the interrelationship of processes with predecessor and successor Grand Juries. Each juror may serve on several committees. These working groups conduct the majority of the work concerning investigations. A general business meeting is held weekly with all Grand Jury members present to coordinate activity.

STRUCTURE AND FUNCTION OF THE GRAND JURY

The Grand Jury is a part of the judicial branch of government. 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 presiding judge appoints a foreperson to preside over the Grand Jury. The foreperson selects the vice-foreperson and secretary, with approval of the Grand Jury. Standing committees or as-needed committees may be formed as the panel decides. Each juror may serve on several committees. These working groups conduct the majority of the work concerning investigations. A general meeting is held weekly with all jurors 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 or other detention facility located within the county.

The Civil Grand Jury may receive letters from 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 as it pertains 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 within our judicial system; a necessary part of our democracy in which individuals can be involved for civil service on behalf of their community.

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 per week for the period July 1 through June 30. Also, considerable time each week will be spent for investigative and report-writing assignments.

The Grand Jury traditionally does not work during the two-week, year-end holiday season and on court holidays. Jurors are requested to take no more than three weeks of additional time off and are encouraged to take vacations prior to March 1 because of the usually busy schedule during the last few months of jury service.

SELECTION

You can expect that a criminal records check will be conducted. The questionnaires will be reviewed and forwarded to a 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. On a specified date in June, random drawings are conducted under the direct 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 11 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 in writing to:

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

Application forms can be downloaded from: <u>www.stocktoncourt.org</u>

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.

COMPLAINT PROCEDURE

Any citizen may submit a complaint to the Civil Grand Jury. 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 dealing with 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 Grand Jury Complaint Form should be submitted by citizens after all attempts to correct a situation 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 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?		
What agency and/or person are you complaining again their addresses and phone numbers)	st? (Name of agency and all individuals, including	
Please explain the nature of your complaint providing and places where the events took place. (Attach extra		
Action taken. Please list other persons and/or agencies yo complaint and any actions you have taken yourself.	ou have contacted in an attempt to resolve this	
Witnesses. Please provide names and telephone numbers	of anyone else who can substantiate your complaint.	
The information in this form is true, correct and complet	te to the best of my knowledge.	
SIGNATURE:	DATE:	



THE COUNTY OF SAN JOAQUIN

Contact Information

The San Joaquin County Grand Jury can be reached:

Via the Internet at:

www.stocktoncourt.org

Via Email at:

grandjury@courts.san-joaquin.ca.us

By visiting or writing:

San Joaquin County Superior Court 222 E. Weber Ave. Room 303 Stockton, CA 95202



LAW AND JUSTICE Authority and Objective

The Grand Jury is responsible for investigating matters pertaining to law enforcement including police, juvenile justice, public protection and probation issues. It is also charged with inspecting detention facilities within San Joaquin County.

Section 919(a) and 919(b) of the California Penal Code authorizes the Grand Jury to inquire into jails and public prisons within the county and the 2007-2008 San Joaquin County Grand Jury fulfilled this mandate

DETENTION FACILITIES

There are basically four categories of detention facilities (adult and juvenile) found in counties where inmates may be detained. On occasion juveniles (minors) are held in adult facilities.

- 1) Type I holds inmates up to 96 hours
- 2) Type II holds inmates pending arraignment, during trial and upon sentencing
- 3) Type III holds only convicted or sentenced inmates
- 4) Type IV work furlough facility

<u>Prison</u> is a secure facility operated by the State of California or a contracted prison provider that houses sentenced offenders under the jurisdiction of the California Department of Corrections and Rehabilitation, Adult Operations Division or the Division of Juvenile Justice.

<u>JAIL</u> is defined as a locked adult detention facility that holds both non-sentenced and convicted adult criminal offenders. A county or a city may operate it.

Temporary Holding Facility holds inmates up to 24 hours

<u>Lockup</u> is a room or secure enclosure under the control of a peace officer or custodial officer; primarily for the temporary confinement of those recently arrested.

<u>Court Holding Facility</u> is located in a courthouse and used to hold inmates for a court appearance, not more than 12 months.



Grand Jury

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FINAL REPORT SAN JOAQUIN COUNTY DETENTION CENTERS AND LAW ENFORCEMENT AGENCIES

The 2007-2008 San Joaquin County Civil Grand Jury completed its mandated duties this term by visiting detention centers and law enforcement agencies in San Joaquin County. The Grand Jury is charged with assessing the condition and management of the facilities based on California Penal Code 919(b). In addition to tours of the facilities, many members also participated in ride-alongs with various law enforcement agencies in the County. The agencies toured this year included the following:

- Stockton Police Department
- San Joaquin County Jail and Sheriff's Office
- State of California Department of Corrections and Rehabilitation/ Juvenile Justice Division of Facilities (O. H. Close, N. A. Chaderjian, and DeWitt Nelson)
- Deuel Vocational Institution
- San Joaquin County Juvenile Justice Center
- San Joaquin County Juvenile Probation

Ride-alongs where performed by various members of the Grand Jury with the following Law Enforcement agencies.

- Stockton Police Dept.
- Lodi Police Dept.
- Escalon Police Dept.
- Tracy Police Dept.
- Manteca Police Dept.
- San Joaquin County Sheriff's Office
- Ripon Police Dept.
- Stockton Fire Dept.

In order to assess the facilities in a consistent and objective way, the Grand Jury utilized an assessment form which contained the following elements:

- Facility
- Procedures
- Inmates
- Staffing
- Budget/Finance
- Safety
- Medical Care
- Citizen Complaint Process

The rating form provided for individual assessment by each Grand Jury member and items for discussion among all members, with a consensus reached regarding each institution. While the 2007-2008 Grand Jury had a sitting Law and Justice Committee all Grand Jury members participated in the tours and the rating of the facilities.

Each facility tour included a presentation by the administrative staff of the agency, with an overview of operations, discussion of issues, updates on the implementation of recommendations, and answers to questions posed by the members of the Grand Jury. The assessment also included a walking tour of the facility, with opportunities for further questions by the Grand Jury members, including interviews with the facility's inmates or wards. In general, the Grand Jury members found the management and other staff personnel of the facilities toured to be competent and energetic with good morale and commends the administrative, management, and other staff for their work. The assessment of each facility follows.

SAN JOAQUIN COUNTY JAIL AND SHERIFF'S OFFICE

OBSERVATIONS BY THE 2007-2008 GRAND JURY

The 2007-2008 Grand Jury toured the Sheriff's Office and the County Jail on October 10, 2007 and was impressed with the facility and the staff. The 2007-2008 Grand Jury would like to commend the Sheriff for his leadership in confronting tough issues and addressing them in a timely manner.

The Grand Jury was impressed with the Sheriff's office on its proactive approach in addressing the upcoming federal change on the topic of inmate strip searches. The Grand Jury feels by training staff and implementing these new policies early, the safety of the deputies and inmates will be maintained.

Early release of inmates is a major problem, but until a jail addition is funded, this problem will remain. Despite the crowding in the jail, the overall cleanliness of the jail was good. The Grand Jury members were also impressed with the behavioral reward program that allows the Honor Farm inmates to "work" their way to more comfortable living conditions.

Every Grand Jury member that participated in a Sheriff's Office ride-along was impressed with the Deputies' professionalism and sense of duty.

FACILITY

1. 2006-2007 Finding: The 124-Unit Honor Farm was opened as of July 2006.

2007-2008 Finding: The Honor Farm continues its operation. This is very beneficial since space and beds are desperately needed.

2. 2006-2007 Finding: The Sheriff's Office acknowledges the need to upgrade the kitchen facilities and is pursuing funding. The fans were repaired immediately following the Grand Jury visit.

2007-2008 Finding: The kitchen facilities are still in desperate need of upgrading or replacement. This Grand Jury is aware of the funding issue and the Sheriff's efforts in acquiring larger jail facilities. The question is whether to spend the money to upgrade the current kitchen or keep it functional until the new facilities are built. While the kitchen equipment is kept clean and functional, the building is showing signs of age.

3. 2006-2007 Finding: The Sheriff's Office hired a consultant to complete a needs assessment of the jail. In addition, the Board of Supervisors approved a budget item of \$16 million as the county's match to a state grant. Any increase in the jail's capacity is still years in the future.

2007-2008 Finding: In April 2008, the State of California promised to award \$80 million to San Joaquin County for the construction of a new jail. The Sheriff's Office is currently pursuing additional funding of \$40 million for annual operating costs.

STAFFING

1. 2006-2007 Finding: The Sheriff's Office experiences difficulties in hiring as do most law enforcement agencies in the state. Active recruitment procedures are being used, including sending recruiters to the academies. In addition, with the signing of a new contract, the pay level for deputy sheriffs was increased to a more competitive level.

2007-2008 Finding: The Sheriff's Office has been steadily increasing the number of deputies as they complete the academies and then complete another 6 months of training with a Field Training Officer. The Sheriff's Office anticipates 144 Deputies by early July of 2008. The Sheriff is committed to filling every vacancy in the Department. The Department is currently looking into starting their own academy which should help in providing new deputies as needed. Retention of trained deputies is still an issue. This Grand Jury feels that provisions for keeping pay and benefits competitive compared to other law enforcement agencies, will enable the County to maintain and increase staffing levels.

RIDE-ALONGS

1. 2006-2007 Finding: The units first installed in the cars have reached the end of their operational functionality. The Sheriff's Office is in the process of installing replacement units.

2007-2008 Finding: Most Deputies felt comfortable with the computers and were well trained in their use. While no deputies complained of the computers crashing, several complained that they felt the computers could be faster while switching screens and transmitting and receiving data.

2. 2006-2007 Finding: Five sport utility vehicles were purchased for the department for use by patrol sergeants.

2007-2008 Finding: These vehicles are still in use by the patrol sergeants and are equipped with special weapons and devices to be used when necessary.

ADDITIONAL FINDINGS BY THE 2007-2008 GRAND JURY

- 1. The department is very active in recruiting new deputies and is taking steps to retain the current deputies.
- 2. The jail facility appeared clean and organized.
- 3. Visitors throw contraband items over the fence and into the recreation areas of the jail facilities to be picked up by inmates. A follow up tour was performed to address some of these concerns and the committee was taken to the site and explained how these violations are performed. Several preventive measures were discussed and reviewed.
- 4. There is a significant cost to the County to transport inmates from detention facilities to the courthouse.

RECOMMENDATIONS

- The Sheriff's Office actively pursued ways of preventing contraband from being supplied to the inmates by method of throwing it over the fence into the recreation yards. Install cameras that monitor the fence line as soon as possible as a quick fix to a more complex problem.
- 2. The Sheriff's Office to look into the possibility of performing video arraignments between the jail, District Attorney's office and the court rooms. This could greatly reduce the cost of transporting inmates to and from the jail to the courthouse for these short proceedings.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Sheriff shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 60 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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STOCKTON POLICE DEPARTMENT

2007-2008 GRAND JURY OBSERVATIONS

The 2007-2008 Grand Jury toured the Stockton Police Department on September 26, 2007. While the main Police Station building is old, it appears to be well maintained and clean. Filling vacant police officer positions is an ongoing issue. The same problems of hiring new officers are faced by other state law enforcement agencies.

The Department is trying hard to fill the ranks and is actively pursuing candidates to attend their academy. Keeping salaries and benefits competitive with surrounding communities will greatly aid in the retention of officers.

The Grand Jury was very impressed with the efficiency and the functioning of the Evidence Room. The amount of evidence that is stored and cataloged is stunning and the process that is used to do it is very efficient. The crime lab, including the ballistic room, is state-of theart and was very impressive to the Grand Jury.

During ride-alongs, Grand Jury members observed the patrol cars mobile data computer monitors seem to vibrate a lot. While the officers never complained about them interfering with their duties, it was mentioned that "You get used to it".

FINDINGS

Stockton Police Department does not use hand-held voice recorders. The use of this
device and procedure will save time and labor. The San Joaquin Sheriff Department
currently uses this procedure.

RECOMMENDATIONS

Stockton Police Department investigate hand-held voice recorders for personnel.
 This device can be used for immediate call detail, dictation, preventing loss of information and later transcription.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Stockton City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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DEUEL VOCATIONAL INSTITUTION

2007-2008 GRAND JURY OBSERVATIONS

The 2007-2008 Grand Jury toured Deuel Vocational Institution (DVI) on November 7, 2007. Although the institution is very crowded, the facility is operated in a very orderly manner. The Grand Jury was impressed with the precision given to the movement of inmates. The institution was found to be clean for the most part with the exception of the Y and Z units (the old gymnasium) which are still filled with double level bunks. This creates a significant overcrowding situation with all the inmates confined in this area. As in the 2006-2007 Grand Jury report, this Grand Jury hopes that the State can find new ways to improve the conditions of this prison by reducing the number of inmates or building new prisons.

2007-2008 GRAND JURY FINDINGS

1. 2006-2007 Finding: After the Grand Jury's visit in the prior year, the Warden instituted more frequent cleaning of the reception and medical areas. A cleaning crew of inmates was established. During the tour of the facility in December 2006, the Grand Jury members noted that the facility was noticeably cleaner.

2007-2008 Finding: While most of the facility looked clean, considering the number of inmates and the transient nature of the facility, there were areas that needed more attention. Due to overcrowding, the gymnasium is being used for housing inmates. Many are double bunked. The bathroom and shower facilities in the gymnasium are in disrepair and in need of a severe cleaning.

The ceiling in the kitchen was found to have peeling paint and is in desperate need of the repair. The Grand Jury has since been notified that DVI recently filled a vacant painter position within the Plant Operations section and has plans to complete the culinary painting project in the early part of July 2008.

2. 2006/07 Finding: Some of the vacancies in the facility were filled and overtime has been decreased by 33%. Recruitment activities continue to maintain staffing levels in the facility.

2007-2008 Finding: Currently DVI has a staff of 1318, which include 757 custody employees and 561 support employees. While overtime was decreasing early in the 2007 fiscal year, 34 positions were approved by the Medical Receiver to handle medical related duties. When these positions were approved, the institution did not have adequate staffing levels to fill the new vacancies created. This has caused a temporary increase in overtime for staff. Overtime staffing will continue until 30 new officer positions have been filled. These officers are scheduled to graduate from the Basic Correctional Training Academy on June 27, 2008.

RECOMMENDATIONS

None

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Department of Corrections and Rehabilitation shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.



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SAN JOAQUIN JUVENILE JUSTICE CENTER

2007-2008 GRAND JURY OBSERVATIONS

The 2007/2008 Civil Grand Jury toured the Juvenile Justice Center on October 31, 2007. The facility appears to be clean and well maintained. The motto is "New Day...new attitude...new way of effecting change in the lives of our youth..." There appears to be a conscious effort to bring core values to the youth at this facility. For example, value the youth, honor the staff, safety and security are taught.

Programs include learning positive behaviors in communication, appearance, manners and etiquette. Sessions on gang awareness are followed with learning positive skills. This can then be use for making better decisions, and setting goals and objectives. This appears to be the best time for helping the juvenile re-enter society. The average stay is 25 days.

A shortage of staff in the mental health facilities and juvenile gang unit was observed on the tour.

FINDINGS

1. Inspirational life sized posters of sports figures were predominantly displayed on the walls of the hallways, some of which were inappropriate role models.

RECOMMENDATIONS

1. Diversify the display of posters to include every day heroes.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.





Grand Jury

County of San Joaquin
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FINAL REPORT - CASE NO. 12-06 SAN JOAQUIN DELTA COMMUNITY COLLEGE

SUMMARY

The 2006/2007 Civil Grand Jury began an investigation, prompted by a citizen complaint, regarding issues with San Joaquin Delta Community College Administration and the Board of Trustees. The 2007/2008 Civil Grand Jury received citizen complaints alleging Brown Act violations and misuse of Measure L funds. The 2007/2008 Grand Jury also investigated the role of the Measure L Bond Oversight Committee.

Despite recommendations from staff and hired consultants, the Board of Trustees continued to pursue Mountain House as the site for the new south county center/campus potentially increasing taxpayer costs by tens of millions of dollars.

The Grand Jury has no confidence in the Delta College Board of Trustees as they are currently constituted. The District needs capable trustees who are able to meet the task of bringing Delta College into the 21st century.

REASON FOR INVESTIGATION

The 2006-2007 and 2007-2008 Civil Grand Juries received several citizen complaints stating that violations of the Brown Act, as well as violation of Government Code Section 54963 (disclosure of closed session discussion and confidential information), had occurred with regard to San Joaquin Delta Community College Board of Trustees. The complainants also asked that these juries investigate the use of Measure L funds with regard to San Joaquin Delta Community College, in particular the Mountain House campus. The 2006-2007 Civil Grand Jury began an investigation but was unable to complete the investigation before their term of service expired. The 2007-2008 Civil Grand Jury continued the investigation of the 2006-2007 Grand Jury as well as new complaints they had received. As the investigation progressed, it was deemed necessary to examine the role of the Measure L Oversight Committee.

BACKGROUND

South San Joaquin County population increased dramatically in the early 1990s. Rapid growth in and near Tracy was projected into the coming decades. Based on these facts and assumptions, the San Joaquin Delta College District Board of Trustees and staff began searching for an adequate site to locate a new center/campus in the Tracy area. San Joaquin County voters passed Measure L, a \$250 million school bond, in a 2004 General Election. These funds were to be used for specific projects which were outlined by the San Joaquin Delta Community College Board of Trustees. Among the many projects listed for bond usage were: establishing an expanded San Joaquin Delta College Education Center in Tracy/Mountain House area to accommodate growth and increasing student enrollment, provide permanent classrooms, lab, library, job training and college transfer counseling facilities in Phase I of the Mountain House education center.

A south county center/campus in the Tracy area was the top priority on the list of projects for Measure L building expenditures. The land had been previously purchased and contracts for the building of the campus were in progress. The center/campus was to be built in three phases. Phase I was listed as an 85,000 square foot building. The estimate to build this facility was \$55 million.

In 2003, Delta College and PCCP Mountain House, LLC began working together on a plan to develop their respective properties at Mountain House. The developer was to provide funds to cover Delta's fees and infrastructure costs. Difficult and protracted negotiations (including an offer by the City of Tracy) led to a settlement agreement between Delta College and the Developer in November 2005. There continued to be board and staff frustration with PCCP.

A closed-session meeting of the Delta College Board of Trustees was held on February 9, 2006, where Delta College's attorney and administrative team informed the Board of Trustees that PCCP would be missing the deadline for the delivery of the Letters of Credit, which would result in a breach of the contract. The Board then discussed the possibility of returning to the deal offered by the City of Tracy and the proposed site at 11th and Chrisman streets. The day after this closed-session meeting, phone calls and a faxed letter indicated that one or more board members had relayed confidential, closed-session information about the "breach of contract" discussion to the developer and his consultant. If true, this is a violation of the Brown Act.

METHOD OF INVESTIGATION

Interviews Conducted

- Delta Community College President
- Delta Community College Trustees
- Land Developer at Mountain House and PCCP representative
- Former Vice President of Finance, Delta Community College

- Current and former members of the Measure L Bond Oversight Committee
- Measure L Bond Program Executive for Delta Community College
- Vice President Finance, Delta Community College
- Director of Facilities and Operations, Delta Community College
- Athletic Director, Delta Community College

Materials Reviewed

- Contracts for personnel involved in Measure L projects
- Expense summaries for expenditures for Measure L funds
- San Joaquin Delta Community College District Proposition 39, Reference Document, San Joaquin County Counsel
- Full text of Measure L ballot initiative
- San Joaquin Delta Community College District Measure L Training Manual for Citizens' Oversight Committee
- Confidential Real Property Negotiations Memorandum, Evaluation of the City of Tracy campus proposal by PPV, Inc.; dated September 30, 2005
- San Joaquin Delta Community College District Resolution No. 04-15, establishing a Citizens' Bond Oversight Committee
- Citizens' Bond Oversight Committee Bylaws, May 2004
- Citizens' Oversight Committee Annual Reports: 2004-05, 2005-06,
- Citizens' Oversight Committee Annual Reports: 2006-07 (partial draft)
- The Brown Act Pamphlet, California Attorney General's Office
- San Joaquin Delta Community College District Feasibility Study for the Tracy/Manteca Education Center dated January 20, 1998
- San Joaquin Delta Community College District Letter of Intent Delta College Center at Mountain House dated May 1, 2001
- Draft supplemental Environmental Impact Report Delta College Center at Mountain House dated September 2001
- Final Environmental Impact Report College Park at Mountain House Specific Plan III Volume III dated June 24, 2005
- Resolution No. 03-44, Resolution of the Board of Trustees of the San Joaquin Delta Community College District Ordering an Election, and Establishing Specifications of the Election Order
- City of Tracy offer to San Joaquin Delta College of center/campus land Letter from the Tracy City Manager to Board of Trustees San Joaquin Delta College dated November 1, 2005 and attached supporting information page four through page seven dated September 26, 2005
- Agenda and Minutes of Delta College Board of Trustees meeting dated February 9,
 2006
- Letter to the Delta College Board of Trustees from PCCP dated February 10, 2006
- San Joaquin LAFCO (Local Agency Formation Commission) agenda item No. 2 packet dated December 7, 2007

Sites Visited

- Mountain House campus location
- Proposed Tracy site at 11th Street and Chrisman Road
- Delta College Open House Lodi
- Oversight Committee meeting

FINDINGS

- The Delta College Board of Trustees made decisions which have caused serious problems and wasted millions of dollars of Measure L funds. The District needs capable trustees who are able to meet the task of bringing Delta College into the 21st century.
- 2. This Grand Jury found that the Board of Trustees of Delta Community College was ill prepared to handle the Measure L Bond funds. At the time the bond measure was proposed, the Board of Trustees knew that they would not be able to obtain the amount of money necessary to cover all of the proposed needs as listed on the ballot. There appears to have been no clear path to fulfill student needs for the future.
- 3. Despite Brown Act training, there continues to be numerous allegations of Brown Act violations by the Delta College Board of Trustees. This Grand Jury found evidence of closed-session discussion being shared outside of the Board of Trustee meetings.
- 4. The public/private partnership between Delta and the developer has delayed construction and has and will cost Delta in many ways such as money, credibility, and community support. Delta College now finds itself in a worse position having no power to cause infrastructure to be completed at the Mountain House site. Public/private partnerships are fraught with complications. Differing goals and divergent project timelines make these partnerships extremely difficult to work successfully.
- 5. The Board of Trustees has had to completely revise the entire Mountain House site plan to accommodate lack of infrastructure availability from the developer.
- 6. The Board of Trustees did not heed nor follow their staff recommendations or the recommendations of consultants, hired by this Board. This Grand Jury finds that making these decisions prior to having been given all facts and pertinent information has caused this Board of Trustees numerous problems.
- 7. The City of Tracy offered a 108 acre site to Delta College, including all fees and infrastructure at an estimated cost of \$6 to \$10 million. The City of Tracy included

an offer to cap Delta's cost and to contribute an additional \$2 million toward mutually defined joint-use facilities. Delta's staff and consultant PPV, Inc. recommended leaving the Mountain House site for the Tracy location. Staff estimated that by going to Tracy and selling the Mountain House property Delta College could save as much as \$50 million. Delta College Board of Trustees on a split vote (4-3) decided to stay with the Mountain House location.

- 8. The demographic studies used by the Delta College District for facilities planning are questionable at best. They did not take into consideration the curriculum type that might be needed i.e. brick and mortar vs. internet usage.
- 9. Although the original estimate for the building of a center/campus at Mountain House was \$55 million, as of January 2008, the estimate has climbed to approximately \$94 million and could go much higher costing District taxpayers tens of millions of dollars. These figures do not include funds for Phase II and Phase III. At this time the plans call for portables (trailers) to be used to house students.
- 10. Private agendas and public bickering have delayed the progress of the use of bond funds. This has resulted in a reduction of projects that will be completed and has caused the complete cancellation of other projects. Therefore, costs have risen by tens of millions of dollars due to inflation.
- 11. Due to a lack of oversight by the Trustees, the Bond Management Company has wasted untold dollars and delayed all projects.
- 12. Citizens' Bond Oversight Committee meets quarterly to review past expenditures related to Measure L. Although Proposition 39 outlines responsibilities, committee members were trained to believe they do not have a mandate to question Measure L expenditures other than those deemed illegal. Although Proposition 39 outlines much broader responsibilities, committee members have been trained that their role is to review financial statements to ensure only authorized expenditures are charged to Measure L, to review project budgets and to the annual report. New committee members received no organized training.
- 13. Brown Act Violations have occurred at meetings of the Citizens' Bond Oversight Committee. Meeting agendas were not posted at the meeting site 72 hours in advance and were not available to the public at one meeting attended by this Grand Jury's members.
- 14. The formation of the new Measure L team and chairperson is a step in the right direction in getting control of bond funds and projects.

RECOMMENDATIONS

- 1. Delta College trustees and administrators avoid making the same mistake by entering into a public/private partnership to develop a center/campus in Lodi or Galt.
- 2. The Board of Trustees thoroughly evaluate all staff and consultants' recommendations prior to making bond decisions and commitments.
- 3. The Board of Trustees use the most current student usage numbers to determine curriculum needs for students, i.e. brick and mortar vs. internet usage.
- 4. The Board of Trustees refocus on the needs of the students and not personal agendas and work together as a cohesive unit.
- 5. Delta College trustees and administration support and work with their new, recently formed committee, Measure L Team, to oversee the various bond programs.
- 6. 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.
- 7. The Bond Oversight Committee meet once per month in an effort to pre-approve all expenses charged to Measure L funds.
- 8. This Grand Jury recommends that the Citizens' Bond Oversight Committee question all changes in projects selected for funding, project plans, or delays in construction. This is a precautionary measure to ensure that Measure L funds are not being wasted.
- 9. 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.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin Delta Community College Board of Trustees report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
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- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT - CASE NO. 02-07 SAN JOAQUIN COUNTY - EXEMPT POSITION HIRING

SUMMARY

The 2007-2008 Civil Grand Jury received complaints in July and August of 2007. These complaints alleged improprieties in the process for hiring of an Assistant Clerk of the Board of Supervisors, a newly created position. After an extensive review of the hiring documentation and interviewing the screening and selecting officials, the Civil Grand Jury finds no evidence of pre-selection of the selected candidate. In addition, the allegations of incorrect process also appear to be false. The Civil Grand Jury did, however, make some recommendations for the improvement of the county's exempt hiring process.

REASON FOR INVESTIGATION

The 2007-2008 Civil Grand Jury received citizen complaints in July and August of 2007. These complaints alleged improprieties in the process for hiring of a newly created exempt position, Assistant Clerk of the Board of Supervisors. Some specific allegations were that proper procedures were not followed and that the selectee was not qualified to fill the position, did not fill out an application, did not meet the application deadline, was not interviewed by the same interviewing panel, and was not among the top fourteen applicants...

BACKGROUND

In 2006 the San Joaquin County Board of Supervisors approved a position of Assistant Clerk of the County Board of Supervisors. This was approved as an exempt position. An exempt position is one that is exempt from Civil Service Rules. Although many people believe that this means that it is exempt from the Fair Labor and Standards Act (FLSA) it is, in fact, covered by it. In early 2007 a recruitment was initiated with the filing period of February 20, 2007 to March 16, 2007. See Appendices for a Recruitment Summary.

METHOD OF INVESTIGATION

The 2007-2008 Civil Grand Jury reviewed documents and interviewed personnel connected to the hiring process.

Materials Reviewed

- Complaints dated July 9, July 31 and August 3, 2007.
- Recruitment Brochure for Assistant Clerk of the Board as well as a copy of the job announcement in The Record.
- List of all Exempt Positions in San Joaquin County.
- Copy of San Joaquin County Ordinance No. 4310, Amending County Ordinance Section 2-5003 (It is this supplement that notes all of the positions that are exempt from the Civil Service System).
- Summary of the recruitment process for the position provided by Human Resources dated August 28, 2007. (See Appendices)
- Interview schedule for the 14 qualified and 7 referred applicants.
- The scoring criteria used.
- Screening panel forms blank and filled in for all screeners and interviewers.
- Recruitment process planning sheet showing sequence and progression of the hiring process.
- Assorted letters to candidates from Human Resources
- Assistant Clerk of the Board Job Description
- Email from the HR analyst to his supervisors, dated August 28, 2007, describing the hiring process
- Email, dated May 24, 2007, from the Management Services Administrator with the San Joaquin County Probation Department to the Clerk of the County Board of Supervisors with a suggested list of questions for the final 7 interviews.
- Packages for all 14 selectees including applications, interviewer notes, and results of the practical exercise.

Interviews Conducted

- The San Joaquin County Director of Human Resources
- The Personnel Analyst assigned to the recruitment
- The Management Services Administrator with the San Joaquin County Probation Department
- The San Joaquin County Administrator
- The Clerk of the San Joaquin County Board of Supervisors

FINDINGS

- 1. After an extensive review of the hiring documentation and interviewing the screening and selecting officials, the Civil Grand Jury finds no evidence of preselection of the selected candidate. In addition, the allegations of incorrect process are not true. The final selectee did fill out an application, met the application deadline, was interviewed with all others by the same interviewing panel, and was in both the group of top fourteen candidates as well as the seven referred for a second round of interviews. The process used (as shown in Attachment A) was more extensive than usual and went well beyond anything required by San Joaquin County for an exempt position. This minimized the possibility of pre-selection. While it is possible that the chosen candidate was pre-selected, there was no evidence that she was. Even if she was, no written procedures prevent this from happening.
- 2. It appears that the complainants had a misunderstanding of "exempt" positions and the hiring process required. As noted above, an exempt position is exempt from Civil Service but not from FLSA. As such, there are no written requirements for how exempt position hiring should be handled. The only written documentation is in the San Joaquin County Ordinance No. 4310, Amending County Ordinance Section 2-5003, which just lists all of the positions that are exempt. It would be permissible for a hiring official to select a person without going through any process other than by having that person fill out an application. As noted by the County Administrator and the Director of Human Resources, some type of abbreviated civil service procedure is always followed. Both noted the necessity to have flexibility in the hiring for exempt positions. This provides the appointing authority more flexibility to evaluate an applicant's experience and personal ability to perform the tasks required of the position.
- 3. In the announcement for the exempt position of Assistant Clerk of the Board, the definition of what it means to be an "exempt" employee is not spelled out.

RECOMMENDATIONS

- 1. While flexibility in hiring might be a good thing, the ability to create numerous exempt positions is not. Because an extensive list of exempt employees appears to have developed over the years, the Grand Jury recommends that the list be reexamined for validity as necessary for exempt status.
- 2. The Grand Jury recommends that future announcements for exempt positions contain an explanation of what an exempt position means.
- 3. The Grand Jury recommends that some type of hiring guideline for exempt positions be written and approved by the County Board of Supervisors, so that appointing authorities in the county (and job applicants) have a consistent path to follow. These

guidelines should be written to ensure a visible and standard approach to exempt position hiring without overly restricting the appointing official.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
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- a. The recommendation has been implemented, with a summary of the action taken.
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- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.

APPENDICES

1. Recruitment Summary

Recruitment Summary: Assistant Clerk of the Board -Position Exempt from Civil Service

Filing Period: 2/20/07- 3/16/07

Outreach and advertisement included the following:

- 1) Brochures were created and mailed to County CAO mailing list
- 2) Job posted on California Clerk of the Board of Supervisors Assn, Central Valley Jobs, and SJ County Websites.
- 3) Two ads posted in The Record on 2118107 and 3/4/07

<u>Total number of applications received from 2/20/07 to 3/16/07:</u> 69 applications Application Summary:

- 42 did not meet the minimum qualifications and were screened out
- 27 met the minimum qualifications; of the 27 qualified 13 were screened out and
- 14 applicants were invited to a panel interview

Screening Steps:

- 1) Screening Panel to review all 69 applications convened on 3/29/07
 - Christine Ferraro, Stanislaus County Clerk of the Board
 - Cindy Turner, Sacramento Clerk of the Board
 - Kurt Shigematsu, San Joaquin County Personnel Analyst
- 2) Interview Panel to interview 14 candidates selected as a result of formal screening panel convened on 1/25/07 and 1 candidate who was ill on 4/25/07 was permitted to interview on 5/10/07 with the panel:
 - Christine Ferraro, Stanislaus County Clerk of the Board
 - Cindy Tuner, Sacramento-County Clerk of the Board
 - Lois Sahyoun, San Joaquin County Clerk of the Board

Note: The interview process consisted of a practical exercise in which the candidate had 10 minutes to produce two memos and a 20 minute interview with the panel.

3) As a result of the interview panel's recommendations, seven (7) candidates were referred to participate in a 2d interview with Lois Sahyoun, San Joaquin County Clerk of the Board, on May 31, 2007. Lois Sahyoun included Carol Bedell, Management Services Administrator with the San Joaquin County Probation Department as a 2nd interviewer in the selection process.

4) Final selection was made from the seven candidates referred with a start date of 7/9/07 for the selected candidate. The selected candidate submitted an application on 3/16/07 which was during the open filing period.

Prepared by San Joaquin County Human Resources August 28, 2007

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Grand Jury

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FINAL REPORT – CASE NO. 03-07 CITY OF LATHROP

SUMMARY

A citizen complaint alleging misconduct in the matter of campaign contributions and alleged unethical behavior by the Mayor of Lathrop is found to be untrue by the Grand Jury.

REASON FOR INVESTIGATION

The 2007-2008 Civil Grand Jury received one complaint in September 2007 regarding alleged improprieties in the campaign contributions for the current Mayor of Lathrop, California. The complaint was non-specific in nature and implied that she, as a candidate for Mayor, took contributions from developers who may have been interested in the Lathrop area. The complaint also alleges unethical actions are being made by the Mayor of Lathrop. Included with the complaint was the California Form 460, Schedule A which listed a number of campaign contributors with the same business address.

BACKGROUND |

The City of Lathrop is located in Northern San Joaquin Valley at the intersection of I-5 and 120 Freeways. The city is in a metro triangle which is bounded by the Bay Area, Stockton and Sacramento. Lathrop's current population is nearly 14,625 and is expected to reach 30,000 by 2012. The City of Lathrop is one of Northern California's fastest growing and most comprehensive Master Planned Communities.

In November 2005, the current Mayor was elected to the Lathrop City Council. In July of 2006 she was appointed Mayor Pro Tem and in November of that year she was elected Mayor which is a two-year term.

In this election she received contributions from several different land developers interested in the Lathrop area.

METHOD OF INVESTIGATION

Materials Reviewed

- The minutes of all Lathrop City Council meetings from January 2007 to the present date
- The list of campaign contributions received by the Mayor of Lathrop in her election bid
- Fair Political Practice Commission (FPPC) rules governing contributions and ethical conduct

Sites Visited

 A physical inspection was made of the specific address which houses the offices of the campaign contributors listed in the complaint.

FINDINGS

- 1. The current mayor has presided over forty-five City Council meetings and has recused herself in ten of those meetings due to a conflict of interest.
- 2. As an elected official, the mayor is not required to step down from voting that may affect campaign contributors.
- The office building that was inspected houses a large number of different businesses, such as law offices, county law centers, land developing companies and architectural firms.
- 4. The Civil Grand Jury finds no evidence that the current Mayor of Lathrop received excessive campaign contributions.
- 5. No one business contributed more than is legally allowed.
- 6. It has been determined that the mayor is now and has been acting in a reasonable and ethical manner in matters where the City Council is considering new business in the City of Lathrop.

RECOMMENDATIONS

None

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Lathrop City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
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FINAL REPORT – CASE NO. 04-07 CENTRAL PARKING DISTRICT

SUMMARY

Citizens complained that the Central Parking District was not fair in assigning parking spaces. Some applicants for parking were assigned spaces rather quickly while others waited months, even years for desirable parking. The complaints further alleged that the Supervisor of the Central Parking District appeared to show favoritism or bias in assignments and was unprofessional in dealing with clients. The 2007-2008 Civil Grand Jury found that there was no written parking assignment process in place, resulting in people being assigned parking spaces out of sequence, for no justifiable reasons.

REASON FOR INVESTIGATION

The Grand Jury received several complaints regarding a pattern of favoritism and mismanagement in the assignment of parking spaces in the parking garages managed by the City of Stockton. The complaints alleged that although when applying for parking spaces they were told that it was on a first-come, first-served basis, the spaces were not issued in that manner. Furthermore, the complainants alleged that they were never contacted when their names came up on the list and that they were treated rudely by the manager when inquiring about their place on the list.

BACKGROUND

The City of Stockton Central Parking District (CPD) manages over 4000 parking spaces included in fifteen surfaced 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. Individual applications are made at the CPD office. Although some of the parking spaces are available immediately, they are not necessarily in the most desirable locations near work sites. The more desirable spaces require that the applicants be placed on a waiting list.

The CPD, which is under the auspices of the Stockton Redevelopment Agency, has one Manager, one Assistant Manager and one clerk who have the responsibility of managing the operation and the distribution of parking spaces. There are about 35 parking attendants at the various garages and lots.

METHOD OF INVESTIGATION

Documents Reviewed

- Request for Monthly Parking and Waiting List Guidelines
- Monthly Parking Application
- Request for Waiting List
- Map of downtown parking garages and lots
- Last two financial audits of CPD
- Market Street waiting list for last four years
- Market Street deleted list for last four years
- Manual waiting list covering 2003 to 2005
- Minutes of last two CPD Board minutes-2/7/07 and 4/4/07
- Job description-Parking District Supervisor
- Job description- Park Attendant Supervisor
- List of last 10 people assigned to Market Street Garage
- City of Stockton-CPD-Parking space utilization
- Complainant's monthly parking request form
- Complainant's waiting list form

Interviews Conducted

- Complainants
- Witness
- Director of the Downtown Redevelopment Agency
- Supervisor, Central Parking District
- Parking Attendant Supervisor

Sites Visited

- Central Parking District Office
- · City of Stockton web site

FINDINGS

- 1. Published policy and procedures do not exist for the city's Parking District.
- 2. No policies and procedures document is available to describe the duties and responsibilities of the CPD employees.
- 3. No policies and procedures document is available to describe the process used to assign parking spaces. Some individuals were given parking spaces out of sequence for no justifiable reason.

- 4. CPD waiting lists are maintained within a non-secure Excel spreadsheet program that can be easily manipulated by other city employees. There is no way to track changes or deletions to the list.
- 5. Minimal attempts were made to contact individuals on the waiting list who may have relocated positions, but still work within the specific agency.
- 6. The CPD seems to lack oversight from the Redevelopment Director. There are no regularly scheduled meetings between the Supervisor and the Redevelopment Director to discuss matters related to the CPD.
- 7. The operation and activities of the CPD office appear to rest solely on the decisions of the CPD Supervisor with very little accountability to, or direction from, the Redevelopment Director.
- 8. There is no procedure or escalation path in place for the effective handling of any citizen complaints beyond the CPD Supervisor.
- 9. A map is not posted in the CPD office lobby to orient applicants as to the location of available parking areas.
- 10. The reconciliation of cash receipts collected by the parking garages and lots is done exclusively by the CPD Supervisor. In her absence, the cash receipts are neither reconciled nor forwarded to the City Treasurer.
- 11. Applicants for parking spaces are not routinely given a receipt to validate the date and time they applied to go on a waiting list.
- 12. Although parking spaces become available, the waiting list is updated but parking spaces are assigned only quarterly.
- 13. The computer system that tracks the activity of the automated parking garages is not routinely backed up. In the event of a server failure all data must be restored manually leading to long delays and possible mistakes.
- 14. There is no online process to allow applicants to apply for parking permits or access the status of their applications.

RECOMMENDATIONS

- 1. Develop a system of assigning parking spaces on a first-come first-served basis free from political pressure or favoritism influencing the assignments.
- 2. Develop a policies and procedures manual for all CPD office employees and the parking attendants.

- 3. Develop and publish an internal training procedure to detail how parking spaces are assigned.
- 4. Develop a procedure and documentation policy to ensure that all reasonable attempts are made to contact applicants on the waiting list.
- 5. Develop and publish a procedure for processing citizen complaints.
- 6. Provide cross training to insure continuous operation of CPD.
- 7. Develop a "checks and balances" system for the reconciling of cash receipts collected from the parking garages to include two persons and also provide for daily processing of those receipts, in the absence of the supervisor or the other person, in accordance with accepted accounting practices.
- 8. Develop a two-part receipt for applicants to validate the date and time of application.
- 9. Post a large map in the CPD office lobby to identify the location of available parking areas.
- 10. Update the parking assignments at least monthly.
- 11. 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.
- 12. Insure that all programs are operated on a secure server not accessible by other departments.
- 13. Develop a program that allows online applications, payments, and issuance of parking passes to accommodate anticipated future growth.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Stockton City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

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- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT – CASE NO. 05-07 CITY OF RIPON

SUMMARY

A citizen complaint was received by the 2007-2008 Grand Jury regarding the manner in which the City of Ripon awarded its 4th of July fireworks contract and expensed monies for a second phase of the city skate park. The Grand Jury conducted an investigation and found no wrongdoing. However, recommendations were made to the city to help alleviate further problems.

REASON FOR INVESTIGATION

The 2007-2008 Civil Grand Jury received a citizen's complaint against the City of Ripon alleging wrongdoing in the awarding of the fireworks contract; also the budgeting of monies for a skate park.

The complaint alleges the city did not formally request bids for the fireworks display and instead awarded the contract to a company with ties to city personnel. The complainant also alleges that the city designated monies for a skate park without properly proposing this expense.

BACKGROUND

The City of Ripon was incorporated in 1945. In October of 1995 the City of Ripon adopted City Ordinance 544 §1, 1995 which outlines the purpose, powers and duties of their Purchasing Officer.

The City of Ripon in March 2007 awarded their fireworks contract to Fireworks America.

In July 2007 the City of Ripon adopted their proposed budget for 2007-2008.

METHOD OF INVESTIGATION

Interviews Conducted

- Fire Chief for the City of Ripon
- City of Ripon City Administrator
- City of Ripon City Clerk/Finance Director

Materials Reviewed

- Complainant's package of materials
- City of Ripon Ordinance 544 §1,1995
- Minutes of City Council Meeting March 6, 2007
- Minutes of City Council Meeting July 17, 2007
- Memorandum of Law

FINDINGS

- 1. City of Ripon Ordinance 544 §1,1995 provides for, and outlines the purpose, powers, and duties of a Purchasing Officer. The position remains vacant at this time, and the duties are being performed by the City Administrator, Finance Director, and the City Council. City Ordinance 544 §1,1995 Section 3.20.070 allows for the bidding process to be by-passed when "the City Council determines that the purchase of supplies, services or equipment using an alternative method would be in the best interests of the city."
- 2. The City of Ripon had an established relationship with an employee of Fireworks America. This employee was able to provide the city with fireworks that were superior to those available from other companies.
- The relationship with this employee of Fireworks America was public knowledge and the City of Ripon had used her previous company for their fireworks display for several years.
- 4. The City Council approved the contract at their March 6, 2007 meeting by a vote of three to two.
- 5. The City of Ripon has an established skate park which is highly praised by those knowledgeable in the sport of skateboarding. The second phase of that park has been approved to be built with funds in the 2007-2008 budget.
- 6. The monies for the second phase of the skate park were publicly discussed in the City Council meeting of July 17, 2007. The City Council voted to approve their proposed budget for 2007-2008 with a vote of three to two. \$400,000.00 for the second phase of the skate park was included in this budget.
- 7. After reviewing minutes of City Council meetings, the Grand Jury is concerned with what appears to be a lack of response to citizen questions in the public discussion phase of these meetings.

RECOMMENDATIONS

- City of Ripon Ordinance 544 §1,1995 should include provisions whenever possible for the use and designation of substitute employees to fill positions outlined by the ordinance.
- 2. To avoid any perception of wrongdoing when awarding contracts not using the "bidding process", the City Council should clearly and precisely state the reasons for and procedures followed for awarding these types of contracts.
- City Council needs to make every effort to address fully the questions and concerns
 of its citizens in the City Council meetings. If an answer is not readily available, an
 acknowledgement of the concern should be made and a time for a response given to
 the citizen.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Ripon City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



City of Ripon

259 N. Wilma Ave. • Ripon, California 95366 Phone 209 599-2108 • Fax 209 599-2685 www.cityofripon.org

MAYOR

Curt Pernice

VICE MAYOR

Chuck Winn

COUNCIL MEMBERS

Elden "Red" Nutt Michael Restucera Dean Urcker

CITY ADMINISTRATOR

Leon Compton

CHY ATTORNEY

Thomas H Terpstry

CITY CLERK/FINANCE DIRECTOR

Lynene Van Lage

CITY ENGINEER

DIRECTOR OF PLANNING & ECONOMIC DEVELOPMENT

Ken Zuidervaurt

PURECTOR OF PUBLIC WORKS

Ted Johnston

ECREATION DIRECTOR

Kre Stevens

May 7, 2008

Filed

MAY 1 6 2008 ROSA JUNQUEIRO, CLERK

Honorable Presiding Judge William J. Murray, Jr. Honorable Advisor Judge George J. Abdallah, Jr. San Joaquin County Superior Court

222 E. Weber Avenue, Room 303 Stockton, California 95202

Re:

San Joaquin County Grand Jury 2007-2008 Report/City of Ripon Response

Honorable Judges Murray and Abdallah:

This letter constitutes the response of the Ripon City Council to the Findings and Recommendations of the 2007-2008 Grand Jury, as it relates to Case No. 05-07. For ease of reference, the City Council has listed each finding and each recommendation in the order presented in the Grand Jury's Final Report, and has listed the City Council's response immediately following each item.

FINDINGS

1. City of Ripon Ordinance 544 §1, 1995 provides for, and outlines the purpose, powers, and duties of a Purchasing Officer. The position remains vacant at this time, and the duties are being performed by the City Administrator, Finance Director, and the City Council: City Ordinance 544 §1, 1995 Section 3.20.070 allows for the bidding process to be by-passed when "the City Council Determines that the purchase of supplies, services or equipment using an alternative method would be in the best interests of the City".

Response: The City of Ripon agrees with this Finding.

2. The City of Ripon had an established relationship with an employee of Fireworks America. This employee was able to provide the City with fireworks that were superior to those available from other companies.

Response: The City of Ripon agrees with this Finding.

 The relationship with this employee of Fireworks America was public knowledge and the City of Ripon has used her previous company for their fireworks display for several years.

Response: The City of Ripon agrees with this Finding.

4. The City council approved the contract at their March 6, 2007 meeting by vote of three to two.

Response: The City of Ripon agrees with this Finding.

The City of Ripon has an established skate park which is highly praised by those knowledgeable in the sport of skateboarding. The second phase of that park has been approved to be built with funds in the 2007-2008 Budget.

Response: The City of Ripon agrees with this Finding.

6. The monies for the second phase of the skate park were publicly discussed in the City Council meeting of July 17, 2007. The City Council voted to approve their proposed budget for 2007-2008 with a vote of three to two. \$400,000.00 for the second phase of the skate park was included in this budget.

Response: The City of Ripon agrees with this Finding.

 After reviewing minutes of City Council meetings, the Grand Jury is concerned with what appears to be a lack of response to citizen questions in the public discussion phase of these meetings.

Response: Consistent with Government Code Section 54954.3(a), the Ripon City Council attempts to allow full public participation in its meetings, including a "public discussion" time at the beginning of each meeting. During the public discussion portion of each meeting, citizens are permitted to address issues and concerns which are not on the Council agenda. The City Council agenda for each meeting informs members of the public that the City Council is not permitted to take action with respect to items which are not on the agenda, which includes public comments. A copy of the current City Council agenda cover page, which is used for all City Council meetings, is attached hereto.

At the same time, the City Council attempts to comply with both the spirit and the letter of the Ralph M. Brown Act ("Brown Act"). In some cases, attempts to be responsive to citizens' comments and questions in the public discussion portion of the City Council meeting have the potential to conflict with the Brown Act. This is because the Brown Act prohibits the Council from "taking action" on issues and concerns raised by citizens. Thus, the City Council will often refer public inquiries raised during the public comment period to City staff for response in the days following the Council meeting. On occasion, citizens will express frustration with what they perceive as a lack of immediate response

to their questions. It is noted that City Council members often share this frustration, as their lack of response can be viewed negatively by the public.

In recognition of this tension, the City Council agenda will be modified to include the statement "While the City Council cannot always answer citizen concerns raised during the public discussion time, the City staff will be instructed, where appropriate, to either provide a response in the days following each Council meeting, or to place the issue on a subsequent meeting agenda for the City Council or one of its appointed commissions."

The Mayor and/or presiding officer of each meeting will be instructed to reinforce this concept at the end of each public discussion period, as necessary. This modification will be accomplished within 30 days of the date of this response.

RECOMMENDATIONS

 City of Ripon Ordinance 544 §1, 1995 should include provisions whenever possible for the use and designation of substitute employees to fill positions outlined by the ordinance.

Response: Ordinance # 544 will be amended to state that the Purchasing Officer shall be the City Administrator, or such person as the City Administrator shall designate, with such designation to be approved by the City Council by Resolution. This amendment will be drafted and presented to the Ripon City Council for first reading within 60 days from the date of this response. The ordinance will be effective 30 days after second reading and adoption of the ordinance, pursuant to Government Code Section 36937.

To avoid any perception of wrongdoing when awarding contracts not using the "bidding process", the City Council should clearly and precisely state the reasons for and procedures followed for awarding these types of contracts.

Response: The City of Ripon concurs with this recommendation. When future contracts are awarded and a determination has been made that either (a) the City has dispensed with formal bidding pursuant to Section 3.20.070, or (b) that the contract is for professional services which are exempt from bidding requirements, the City's determination will be recited within the Staff Report for each such item. This recommendation will be implemented immediately.

3. City Council needs to make every effort to address fully the questions and concerns of its citizens in the City council meetings. If an answer is not readily available, an acknowledgement of the concern should be made and a time for a response given to the citizen.

Response: The City of Ripon concurs with this recommendation. Consistent with Government Code Section 54954.3(a), the Ripon City Council attempts to allow full public participation in its meetings, including a "public discussion" time at the beginning

of each meeting. During the public discussion portion of each meeting, citizens are permitted to address issues and concerns which are not on the Council agenda. The City Council agenda for each meeting informs members of the public that the City Council is not permitted to take action with respect to items which are not on the agenda, which includes public comments. A copy of the current City Council agenda cover page, which is used for all City Council meetings, is attached hereto.

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In recognition of this tension, the City Council agenda will be modified to include the statement "While the City Council cannot always answer citizen concerns raised during the public discussion time, the City staff will be instructed, where appropriate, to either provide a response in the days following each Council meeting, or to place the issue on a subsequent meeting agenda for the City Council or one of its appointed commissions." This modification will be accomplished within 30 days of the date of this response.

The Mayor and/or presiding officer of each meeting will be instructed to reinforce this concept at the end of each public discussion period, as necessary.

If there are questions or concerns regarding any aspect of this Response, please feel free to contact City Attorney Thomas H. Terpstra, or send correspondence to the City Council at 259 N. Wilma Avenue, Ripon, California, 95366.

Sincerely,

The City of Ripon Curt Pernice, Mayor

Ripon City Council Minutes

TUESDAY, MAY 6, 2008 - 7:00 P.M.

CLOSED SESSION: 5:45 P.M. Council Conference Room

Conference with Legal Counsel pursuant to Government Code 54956.

1)Appraisal - 311 W. Main Street

2)Grand Jury Report

ROLL CALL: Council Members Elden R. Nutt, Dean Uecker, Vice-Mayor Chuck Winn, Mayor Curt

Pernice

Absent: Council Member Mike Restuccia

OTHERS PRESENT: City Administrator Leon Compton, City Attorney Tom Terpstra, City Clerk Lynette Van Laar

<u>City Attorney Terpstra</u> said that after reviewing the appraisal, the Council decided to discontinue any discussions on purchasing the property located at 311 Main Street.

<u>Terpstra</u> said the Council reviewed the Grand Jury items regarding the City of Ripon and approved a formal response. The response will be forwarded to the Grand Jury and will be available to the public after the letter is sent.

The Closed Session adjourned at 6:40 p.m.

REGULAR MEETING

The meeting was called to order as indicated at 7:00 p.m. with Council Member Uecker leading in the Pledge Allegiance to the Flag.

INVOCATION: Tom Terpstra gave the invocation.

ROLL, CALL: Council Members Elden R. Nutt. Dean Uecker, Vice-Mayor Chuck Winn, Mayor Curt

Pernice

Absent: Council Member Mike Restuccia

OTHERS PRESENT: City Administrator Leon Compton, City Engineer Kevin Werner, City Attorney Tom Terpstra, Planning Director Ken Zuidervaart, City Clerk Lynette Van Laar, Deputy City Clerk Jeanne D. Hall, Information Systems Technician Dan Brannon, Director of Public Works Ted Johnston, Police Chief Richard Bull, Recreation Director Kye Stevens, Lorraine Goff, Gerry Nies, Bernice Finley, Tracy Schaffer, Dorothy Schaffer, Danielle Pierce, Gert Isaia, Andy Varian, John Mangelos, Randy den Dulk, Anton den Dulk, Jared

Goslinga, Jordan Goslinga, Ginger Eskes, Mark Winchell, Carol Madsen, Bob Madsen, Jim Harrigan, Navid Fardanesh, Gaynl Trotter, Steph Hobbs, Garry Krebbs, Dan Prince, Angela Brown, Freida Le~ni, Michael Brown.

PUBLIC DISCUSSION: No one from the public wished to speak at this time.

<u>APPROVAL OF MINUTES:</u> MOTION: MOVED, SECONDED (NUTT, UECKER) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE MINUTES OF THE REGULAR RIPON CITY COUNCIL MEETING OF APRIL 15, 2008.

APPROVAL OF AGENDA AS POSTED (OR AMENDED):

Council Member Nutt requested that Item 4A be pulled from the Consent Calendar for discussion.

Mayor Pernice withdrew Item 7B since the Council will not pursue the purchase of the property.

MOTION: MOVED, SECONDED (WINN, UECKER) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE AGENDA AS AMENDED.

CONSENT CALENDAR

Notes:

1. Income

A. STATE OF CALIFORNIA

Retail Sales Tax

\$123,400.00

Motor Vehicle License Fees

\$5,481.99

TOTAL

\$128,881.99

B. COUNTY OF SAN JOAQUIN

Jack Tone Road Class 1 Bikeway

\$475,000.00

C. MODESTO IRRIGATION DISTRICT

Permission Fee

\$82,381.95

D. GILTON SOLID WASTE

Franchise Fee

\$7,217.87

E. T-MOBILE

Base Rent

\$749.81

F. SPRINT NEXTEL

Ground Lease

\$419.28

G. AT&T

Acacia Avenue

\$839.01

2. Bills, Invoices, Payments

A. THOMAS H. TERPSTRA - LAW

General

\$15,618.50

Police Department Matters

\$123.50

Shadow Hawk Development

\$2,798.00

TOTAL

\$18,540.00

B. HCS ENGINEERING, INC.

Mistlin Parking Lot Progress Payment

\$2,000.00

C. INTERWEST CONSULTING GROUP

Transportation Planning

Progress Payment

\$3,809.00

D. DAMON S. WILLIAMS ASSOC., INC.

Well No. 12 and No. 9

Progress Payment

\$7,666.92

E. NEIL O. ANDERSON

Boesch-Kingery park / Lan park

\$2,610.00

F. WGR SOUTHWEST, INC.

Development of Storm Water Standards

\$388.55

Invoice 8505

Invoice 8676

\$78.00

TOTAL

\$466.55

2.			
	G.	PACIFIC VALLEY APPRAISAL, INC.	
		311 W. Main Street	\$3,000.00
		•	
	H.	MONTGOMERY-WATSON-HARZA	
		Groundwater Grant Application Assistance	
		(AB303) Progress Payment	\$5,123.00
	ł.	COMMUNICATIONS CONSULTANTS	
		Stockton Avenue Utilities	
		Progress Payment	\$3,460.00
	J.	RRM DESIGN GROUP	
	٠.	MM DESIGN GROOT	

K. KINETICO

Well No. 12 Progress Payment

City Hall Expansion

\$1,616.25

\$637.85

L. ROSS F. CARROLL, INC.

Main Street/Stockton Avenue Rehab. Progress Payment

\$278,298.00

3. Resolutions

A. RESOLUTION NO. 08-18

RESOLUTION OF THE CITY OF
RIPON APPROVING THE ANNUAL
TRANSPORTATION CLAIM AND
ATTACHMENTS THERETO AND
AUTHORIZING THEIR SUBMISSION TO
THE SAN JOAQUIN COUNTY COUNCIL
OF GOVERNMENTS FOR THE
2007-2008 FISCAL YEAR OF
THE CITY OF RIPON

Approve the transportation claim and authorize the submission of the claim to the Council of Governments for fiscal year 2007-2008.

4. Miscellaneous Items

A. PROPOSITION IB GRANT

Item 4A was pulled for discussion.

Local Street and Road Improvements

Approve the plan for the use of Prop 1B funds for improvements to Wilma Avenue from Main Street to Fourth Street.

(Grant: \$400,000.00)

B. EMPLOYEE COMPUTER PURCHASE PLAN LOAN AGREEMENT

Objective: To elevate computer literacy of full-time city employees,

Authorize the computer purchase and loan agreement for Maria Elizabeth Forks. (\$1,927.79)

C. ROSS F. CARROLL, INC.

Main Street/Stockton Avenue Rehab. Change Order No. 1

Approve Change Order No. 1 for various field changes: relocate utilities, tree removal, emergency contact signs.

(Cost: \$11,784.13)

4.

D. DON PEDRO PUMP

Well No. 18 Pump Station Change Order No. 1 Approve Change Order No. 1 to furnish and install equipment required to connect Well No. 18 to either potable or non-potable supply lines.

(Cost: \$25,331.16)

E. VACATION TIME PAY OUT

Richard A. Bull

Approve the request from Richard A Bull to cash out 40 hours of vacation time to be paid directly to his City GAP++ account.

F. KINETICO

Well No. 9 - Arsenic Removal Treatment Change Order No. 2 Approve Change Order No. 2 for start-up services and the purchase of two flow switches.

Witches,

(Cost not to exceed: \$13,400.00)

G. NESTLE USA, INC.

Well Abandonment Agreement Municipal Well No. 4 Municipal Well No. 6 Authorize the Mayor to sign the Well Abandonment Agreement for wells MW-4 and MW-6.

(Cost not to exceed: \$100,000.00)

H. WEST COAST NETTING

Netting at the Mistlin Baseball Fields

Approve the purchase of netting to be installed at the Mistlin Baseball fields and authorize staff to proceed with the

project.

(Cost: \$23,920.00)

MOTION: MOVED, SECONDED (WINN, NUTT) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE CONSENT CALENDAR.

City of Ripon Minutes 5-6-08 CNL 7

Discussion on Item 4A.

<u>City Engineer Werner</u> said that Proposition 1B is state funding to be used for local streets. The amount of money a city receives is based on population, and our part is \$400,000.00. The Wilma Avenue project was already in process as part of the current downtown project, so it was a good fit.

Council Member Nutt said that since the street was already being done, this frees up the \$400,000 that the City had carmarked for the project. There are lots of streets in the City, the worst being Wilma Court, that need work. The \$400,000 could be used in these other areas.

Council Member Uecker agreed, saying that some streets have potholes.

<u>City Administrator Compton</u> said that the \$400,000 that was originally committed to the Wilma Avenue project is Redevelopment money. Other projects have been earmarked to use Redevelopment money, such as sidewalks in the old part of town, and resurfacing alleyways. The main purpose of the money is for main streets, and there is not enough money to do all projects.

Uccker asked how far the \$400,000 can go.

<u>Werner</u> said it will pay for a four-block street length. Wilma Avenue is getting a complete reconstruction. Wilma Court would probably cost \$200,000.

Mayor Pernice asked about using pavers.

Werner said the cost of pavers is coming down, but is still twice the cost of asphalt.

Nutt asked if street projects are prioritized.

Werner said the City has a capital improvements list, and he tried to get grant money to pay for the projects.

Nutt said that the City needs a new street list.

Pernice asked what percentage of funds come from the TDA funds.

Compton said the City applies for the TDA grant on an annual basis, but we have to subtract any money that was not used the previous year. We qualify for about \$600,000 a year. Other funds come from the gas tax, and some from Measure K. It is not a lot of money because we have to pay for ongoing street sweeping and crack patching. He said the City Engineer is good at getting grant money.

<u>Vice Mayor Winn</u> said he talked to the previous City Engineer (Machado) before he left asking his how much it would cost to bring up all the existing streets up to standard. Machado said it would cost \$50 million. Winn said that sidewalks are needed in the older part of town. The money must be used to serve the largest part of the population.

Nutt said that the City needs a list of street projects that need attention.

MOTION: MOVED, SECONDED (NUTT, UECKER) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE PLAN FOR THE USE OF PROP 1B FUNDS FOR IMPROVEMENTS TO WILMA AVENUE FROM MAIN STREET TO FOURTH STREET, AND TO DIRECT THE CITY ENGINEER TO FORMULATE A LIST OF STREETS THAT NEED ATTENTION.

City of Ripon Minutes 5-6-08 CNL 8

5. PUBLIC HEARINGS

Notes:

A. ZONING TEXT AMENDMENT

TAZ08-01
PEA08-07
§16.12 Use Classification System
§16.90.030 Wireless Telecommunications
fowers and Antennas: Applicability
§16.20 Office and Commercial Districts
§16.24 Industrial Districts as they relate to
allowable uses
§16.26 Mixed Use Districts

This is a public hearing to consider amendments to Title 16. A Negative Declaration (PEA08-07) is recommended for this project.

<u>Planning Director Zuidervaart</u> introduced the report stating that a local business owner wanted to fix up his site, but some restrictions prevented him from necessary changes. This triggered amendments to certain parts of Title 16, and Zuidervaart took the opportunity to make necessary changes to other sections while staying consistent with the City's General Plan.

PUBLIC HEARING OPENED

No one from the public wished to speak at this time.

PUBLIC HEARING CLOSED

MOTION: MOVED, SECONDED (UECKER, NUTT) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE ZONING TEXT AMENDMENT TAZ08-01 AND ADOPT THE PEA08-07, AND DIRECT THE CITY ATTORNEY TO PREPARE THE NECESSARY DOCUMENTS FOR ADOPTION.

6. ORDINANCES

Notes:

Second Reading and Adoption

A. ORDINANCE NO. 764

AN ORDINANCE OF THE CITY OF RIPON
APPROVING THE DEVELOPMENT
AGREEMENT ENTERED INTO BETWEEN
THE CITY OF RIPON, AND FRANK BORGES
FOR THE DEVELOPMENT OF CERTAIN
REAL PROPERTY IN THE CITY OF RIPON

This ordinance approves the development agreement with Frank Borges for a project located at 1190 S. Robert Avenue.

MOTION: MOVED, SECONDED (UECKER, NUTT) AND CARRIED BY THE FOLLOWING VOTE TO WAIVE THE SECOND READING AND ADOPT ORDINANCE NO. 764.

AYES:

Uecker, Nutt, Winn, Pernice

NOES:

None

ABSENT:

Restuccia,

ABSTAIN:

None

Second Reading and Adoption

B. ORDINANCE NO. 765

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIPON ADOPTING THE REVISED TITLE 8.16 OF THE RIPON MUNICIPAL CODE This ordinance amends Chapter 8.16 regarding nuisances and incorporates the text of Chapter 8.08. Repeal the defunct Chapter 8.08.

MOTION: MOVED, SECONDED (UECKER, NUTT) AND CARRIED BY THE FOLLOWING VOTE TO WAIVE THE SECOND READING AND ADOPT ORDINANCE NO. 765.

AYES:

Uecker, Nutt, Winn, Pernice

NOES:

None

ABSENT:

Restuccia,

ABSTAIN:

None

7. DISCUSSION ITEMS

Notes:

A. RIPON RETAIL REPORT - FINAL DRAFT

Economic Development Systems Discussion/Action Jim Harrigan will present the Ripon Retail Report regarding retail analysis, strategies, and recommendations for retail recruitment and development.

Jim Harrigan, Economic Development Systems, explained that there are four main districts in the Ripon retail area: 1) the historical downtown area, 2) the Village Properties acreage (southeast corner of Ilwy. 99 and Jack Tone Road), 3) northeast of Hwy. 99 and Jack Tone Road (adjacent to Santos Ave. and Goodwin Drive), and 4) the Gill acreage west of the Mistlin Sports Park. He said his company has worked with 42 cities in the past 16 years and they have brought in 3.5 million square feet of retail to these cities. He said that he has completed the first phase of the process, which culminates in the report presented tonight. The second phase will be the retail recruitment. Harrigan said that the Ripon downtown area is 42% office space. He said there is a browsing effect when people are shopping. If they come across any interruption (office, vacant lot, church), the browsing stops. He said that offices should be on the second floor or on side streets. When more retail is in town, the rental rates will rise, and more retail will come in. Offices will move up (stairs) and out (to side streets).

Harrigan said there are a lot of dollars leaving Ripon and going to other cities. He said that Ripon needs more independent restaurants with full-service bars equal to Georgio's. He said he would bring in other cuisines. He recommends independent restaurants, not national chains. He also recommended bringing in entertainment like jazz or blues. These would increase the hours on Main Street. He said that 42% of the Main Street businesses close at 5:00 p.m.

<u>Vice Mayor Winn</u> asked about developing a playhouse like the one in Sonora to bring in people.

<u>Harrigan</u> said the problem with playhouses is that they are heavily subsidized by the city. Small theaters are not even successful in Los Angeles.

Mayor Pernice asked about a performing arts center.

<u>Harrigan</u> said that anything that brings people into town is good. A farmer's market would be good. The question is: who supports the venue?

Pernice asked about his vision for jazz and blues.

<u>Harrigan</u> said a space needs to be available to rent for a jazz club that serves some food, beer and wine. He said that Village Properties already has some leases signed, but he does not want to see typical Modesto retail. Ripon needs a restaurant row. He said he has talked to the Village Properties developer and has asked him to forestall any lease to secondary retailers.

Pernice asked if he has talked to any of these people.

7. DISCUSSION ITEMS, continued:

<u>Harrigan</u> said he has contacts and he matches demographics here with retail demographics. He stressed that the City needs high-end restaurants.

Winn said that other studies say that Ripon needs more rooftops to bring in more retail. He said that Ripon is unique—it has a reputation. Customers would come here to shop at a Wal-Mart rather than shop at a Wal-Mart in another town. But based on Harrigan's study, do we have enough rooftops?

Harrigan said he looked at demographics at 3, 6 and 12 miles out. He said he should have looked at demographics at 5, 10 and 20 miles out because drive time is important. He said he will correct this when he talks to retailers. He said that if a city has a draw, such as a high-end restaurant, a city can pull from 20 miles out. He said that the average income in Ripon is \$82,000 within 3 miles, and is \$70,000 within 6 miles. The economy is in a slump right now, but that won't last. He said his job is to sell Ripon to retailers, and he has good marketing people. He said there is a lot of undeveloped land around Love's, and there are a lot of people going there now. Harrigan said there is a real possibility for a movie theater here. He said there are already enough fast-food places here, so Ripon needs good sit-down restaurants.

Winn asked about video rentals or book stores.

<u>Harrigan</u> said video rentals are a losing proposition. Their competition is sources like DirectTV and Netflicks. He would never do a deal with them. Harrigan said independent book stores are a dying breed. Barnes & Noble will go into shopping centers, but Borders are going out of business. The internet is killing them.

<u>Harrigan</u> also mentioned the Gil property by Mistlin Park. He said that will be a great area in the future, but will not be good for at least 10 years.

MOTION: MOVED, SECONDED (NUTT, UECKER) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO ACCEPT THE REPORT.

B. PURCHASE OF 311 W. MAIN STREET

Pacific Valley Appraisal, Inc. Discussion/Action

Item 7B was withdrawn.

Discuss the appraisal for property located at 311 W. Main Street, and consider the possible purchase.

(Appraisal: \$320,000.00)

C. PROPOSAL FROM ICE ENERGY

Ice Storage Air Conditioning Investment Grade Audit Discussion/Action Consider the proposal from Ice Encrgy to do an analysis of the cost to provide air conditioning at the Library and Senior Center.

(Consulting Fee: \$5,000.00)

City of Ripon Minutes 5-6-08 CNL 12

7. DISCUSSION ITEMS, continued:

<u>Johnny Mattice</u>, Ice Energy, gave a presentation on how the Ice Storage Air Conditioning works. He said it makes ice at night when costs are low, and uses the ice to create air conditioning during the day. He said his units are connected to the existing unit and his units last from 15 to 20 years.

City Administrator Compton said that if they can't deliver, the City does not pay anything.

MOTION: MOVED, SECONDED (WINN, UECKER) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO ACCEPT THE PROPOSAL FROM ICE ENERGY TO DO AN ANALYSIS OF THE COST TO PROVIDE AIR CONDITIONING AT THE LIBRARY AND SENIOR CENTER.

D. COMMUNITY AND YOUTH COMMISSION

Ripon Community Athletic Foundation Mother's Day Run Discussion/Action Discuss the Commission's request for funds to buy refreshments for the RCAF run. (Reimbursement: \$200.00)

MOTION: MOVED, SECONDED (UECKER, NUTT) AND CARRIED BY A VOTE OF 4-0 (RESTUCCIA ABSENT) TO APPROVE THE COMMUNITY AND YOUTH COMMISSION'S REQUEST FOR \$200.00 TO BUY REFRESHMENTS FOR THE RCAF RUN.

City of Ripon Minutes 5-6-08 CNL 13

REPORTS	
City Administrator: No Report	
City Attorney: No Report	
City Engineer: No Report	
Planning Director: No Report	
Chief of Police: <u>Bull</u> said the state-wide Memorial Ceremony will be on May 9 in Sacramento. The national ceremony will be next week in Washington, D.C. Ripon will be sending an Honor Guard with the Wingets.	
Recreation Director: No Report	
Director of Public Works: Johnston said that this week is part of the Spring Clean-up.	
City Council: Nutt said that he and Council Member Uecker, City Engineer Werner, and Recreation Director Stevens went to Modesto to see a new park. He said they looked at other parks and found some very interesting ideas.	
There being no further business, the meeting adjourned at 8:50 p.m.	
	(Signed) Curt Pernice
	Mayor
ATTEST:	
(Signed) Jeanne D. Hall	
Deputy City Clerk	
REDEVELOPMENT AGENCY:	
There being no further business, the meeting adjourned at	

City of Ripon Minutes 5-6-08 CNL 14

ATTEST:

(Signed) Jeanne D. Hall

Deputy City Clerk

(Signed) Curt Pernice

Chairman



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT - CASE NO. 06-07 LINCOLN UNIFIED SCHOOL DISTRICT

SUMMARY

The Grand Jury investigated a complaint involving three areas of the Lincoln Unified School District (LUSD) in Stockton; management of bond, allocation and management for the Gifted and Talented Education (GATE) program and school closure procedures. Due to changes in personnel, this Grand Jury finds that proper record keeping was not done for the 1991 \$40 million authorization. The Grand Jury recommendation is that any future bond fund balances remain on the annual budget report. This policy would help to maintain an accounting for unused funds. The Grand Jury found management practices for the GATE Program are in compliance with State of California guidelines. The Grand Jury found no Brown Act violations relating to the school closure. Open-meeting discussions were properly disclosed. The District held meetings with community members and personnel prior to the school closure.

REASON FOR INVESTIGATION

The Grand Jury received a complaint against the Lincoln Unified School District alleging questionable management practices in several areas. An investigation was conducted on the following issues:

1. Management of Bond Funds

The complaint alleged that the school district was negligent in the handling of bond measure funds. The complaint noted that the district had "lost" or "misplaced funds" from one bond measure and that voters subsequently passed a second bond measure.

2. Allocation and management of funds for the GATE Program

The complaint alleged the GATE Program is not consistently administered within the school district and therefore children may have problems being placed back into the program upon transferring schools. Also at question was the cost and overhead of the GATE programs and whether or not it took money away from other school programs.

3. School Closure

The complaint alleged that the closure of the school was not handled properly by the District. The concerns were a) the cost effectiveness of the school closure, b) the manner in which the school to be closed was selected and c) probable violation of the Brown Act provisions that require public notification of meetings and prohibits voting outside of the public meetings. The complaint alleged that students and teachers were not made aware of the school closure prior to action taken by the board of trustees.

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<u>BACKGROUND</u>

The Lincoln Unified School District is governed by an elected Board of Trustees and serves approximately 8,500 students. There is one comprehensive high school, one alternative high school, an independent learning center (grades 7-12), two community day schools (K-6 and 7-12), one middle school (7-8), two elementary schools serving grades K-6, and seven elementary schools serving grades K-8. The District offers several programs outside of traditional curriculum including GATE.

In 1991 Lincoln Unified School District was the beneficiary of a Mello-Roos Bond, CFD-1, for \$40 Million dollars. They were able to get about 50% of the bond sold. In 2004 a general bond measure, Measure P, was approved by voters for the benefit of LUSD. After the passage of Measure P, The Record newspaper reported that an auditing firm hired by LUSD (Caldwell, Flores and Winters) located \$21 million dollars from the 1991 bond-measure funds that had been misplaced.

In 2005 LUSD considered closing Lincoln Elementary school, but because of public outcry the school was not closed. One year later the Board of Trustees revisited the issue of school closure and voted 4-1 to close the Village Oaks School. This closing resulted in students being reassigned to other schools within the district. As a result, the school district was publicly criticized for choosing Village Oaks School over Lincoln Elementary; also, for moving too quickly to allow citizen comment.

METHOD OF INVESTIGATION

Materials Reviewed

- Report to the Community on Measure P dated March 10, 2006
- Measure P Oversight Committee Annual Report to the Community, April 20, 2007
- LUSD Bond Oversight Committee Meeting Minutes, March through October 2005
- LUSD Schedule of Audit Findings & Questioned Costs for year ending June 30, 2006
- LUSD Financial Statement for period ending June 30, 2007

- LUSD Resolution No. 98-08 (An intent to issue bonds)
- Minutes of the Regular Meeting of the LUSD Board of Trustees dated June 13, 1990
- 2007-2008 GATE budget
- California Code of Regulations, Title 5 Education
- LUSD GATE application 2004-2009

Program Design

Identification

Curriculum and Instruction

Social and Emotional Development

Professional Development

Parent and Community Involvement

Program Assessment

Budget

- LUSD Report on the Closing of Village Oaks Elementary School, January 6, 2008
- Construction Program Expenditures dated July 1, 2004 December 31, 2007

Interviews Conducted

- LUSD Superintendent
- LUSD Associate Superintendent
- LUSD GATE Program Director

FINDINGS

1. Management of Bond Funds

- a. Although voters agreed in 1991 to give the school district authorization to sell a \$40 million-dollar bond, the bond was not fully sold due to a lack of assessed property values.
- b. During the period of time between the approval of the 1991 bond measure and the 2004 passage of Measure P, significant changes in District staff occurred.
- c. This led to a misplacement of unused funds from the 1991 bond measure.
- d. The balance of the 1991 bond-measure funds (\$21 million) was recently used to supplement Measure P Funds.

2. The GATE Program

- a. GATE was established in 1952 by the State of California. It provides a "differentiated learning experience" for students identified as "gifted and talented".
- b. Every GATE student is nominated and tested using the same criteria.

- c. The GATE Program as operated by the Lincoln Unified School District is administered using the State guidelines.
- d. Children who are nominated and admitted to the GATE program may continue in GATE even if they change schools.
- e. Every school has their own GATE committee.
- f. All funding for GATE comes from the State of California.
- g. GATE programs are operated in approximately 800 California school districts located in all 58 counties. There are over 480,000 public school students that have been identified as gifted and talented in the state.

3. Closure of School

- a. The Grand Jury was not able to validate any violations with regard to the Brown Act. The Superintendent made a presentation to the board of trustees regarding the school closure prior to the board voting. This is an acceptable practice.
- b. Meetings conducted by the LUSD regarding school closure were properly noticed. Board agendas were posted throughout the District and on the LUSD website.
- c. The LUSD District administration held community meetings with teachers and staff to present the possibility of school closures prior to any action being taken.
- d. School closure selection was prioritized based on declining student enrollments and low demographics, which results in lower state funding.
- e. There is no official mandate or protocol to close a school. Selection for school closure is at the discretion of the school board of trustees.

RECOMMENDATIONS

Management of Bond Funds

1. Future authorized unused bond authorization should remain categorized on the budget until they are used to prevent being overlooked.

The GATE Program

No Recommendation

Closure of School

No Recommendation

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The Lincoln Unified School District Board of Trustees shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT - CASE NO. 07-07 SAN JOAQUIN REGIONAL TRANSIT DISTRICT

SUMMARY

The 2007-2008 Civil Grand Jury received a citizen complaint alleging an abuse of position of authority and misuse of taxpayer monies by the General Manager/CEO of San Joaquin Regional Transit District (SJRTD). Included in the complaint was the concern of impropriety relating to SJRTD hiring and termination procedures for employees and consultants. The complaint further alleged that the Governing Board of Directors failed in its responsibility to provide proper oversight with regard to the operation of the District. The Grand Jury found that some of the allegations made in the complaint were legitimate.

The Grand Jury noted an excessive use of consultants over long periods of time. This speaks negatively of SJRTD Management's ability to exercise their responsibilities. The investigation expanded to include the misuse of credit cards and purchase cards, improper procurement procedures, poor contract management, and impropriety in the negotiations for the final settlement of the contract for the Downtown Transit Center (DTC) construction project.

There are other areas of SJRTD that deserve scrutiny. This should be the task of the Governing Board of Directors. The Board's "Hands Off" style of management is not in the public interest and does not protect the public purse.

REASON FOR INVESTIGATION

The Civil Grand Jury received a complaint containing several issues of concern regarding the San Joaquin Regional Transit District. A preliminary examination revealed there was a solid basis for the complaint. It was determined that there were a multitude of improper management practices that justified a full investigation.

BACKGROUND

The San Joaquin Regional Transit District provides public transit services in the Stockton Metropolitan area, as well as intercity, interregional, and rural transit services countywide. The service area population is approximately 545,000.

San Joaquin Regional Transit District operates fixed-route bus service primarily for the City of Stockton, while connecting 12 cities within San Joaquin County. Downtown Stockton is additionally served by Trolley vehicles. Fixed routes operate 365 days a year in the Stockton Metropolitan area. Specialized commuter services connect San Joaquin County with Sacramento, the Bay Area and Bay Area Rapid Transit. Para transit curb-to-curb services are also available for SJRTD customers.

The General Manager/CEO, Assistant General Manager/COO, Assistant General Manager/CFO and four department Directors manage the daily operations of Transportation, Maintenance, Business Analysis and Human Resources. SJRTD employs approximately 340 employees and operates 132 revenue vehicles.

An annual budget (2007) of approximately 42 million dollars includes a Staff Travel allowance of \$127,000 and Career Development allowance of \$70,000. Major sources of revenue are derived from taxpayer funding and grants from the State of California and from the Federal Government.

A 5-member Board of Directors governs SJRTD. The function of this Board is to establish policy, select the General Manager/CEO and Legal Counsel and provide for governance of SJRTD. The General Manager/CEO is responsible for agency adherence to SJRTD programs and policy.

Enabling Legislation includes the San Joaquin Regional Transit District Act as set forth in the California Public Utilities Code, regulations issued by the U.S. Department of Transportation, Federal Transit Administration and the Rules of Procedure, as adopted by the Board of Directors.

In January 2004, a construction contract was signed to build the Downtown Transit Center. Construction was completed in December 2006. This complex features a two level structure, which includes a large boardroom that is extremely well furnished with modern sound and large screen video equipment, several meeting rooms, break rooms and an exercise room with state of the art equipment. The General Manager/CEO's office is on the second level and features a raised platform for the work/meeting area, with a view of Weber Avenue. Behind her desk is another large conference room, furnished with custom chairs and two large flat panel television monitors. The Downtown Transit Center is located at 421 East Weber Avenue downtown Stockton.

METHOD OF INVESTIGATION

The investigation began in November 2007. The Grand Jury toured the Downtown Transit Center and interviewed various members of SJRTD staff, contractors, and consultants. Some witnesses were evasive, self-serving, and deliberately misleading in their testimony and did an inadequate job in providing documents. This made the investigation more difficult and lengthier than it should have been. Numerous documents were examined and conclusive findings were established based on this information and from testimony given during interviews.

Materials Reviewed

- Contracts of various employees, contractors, and consultants
- SJRTD Web Site
- SJRTD Procurement Manual
- Purchase card agreements, summary statements and receipts from 2004 through January 2008
- Negotiation Memorandum F&H Global Settlement Drafts

Interviews Conducted

- Members of the Board of Directors
- General Manager/ Chief Executive Officer (CEO)
- Assistant General Manager/Chief Financial Officer (CFO)
- Assistant General Manager/Chief Operations Officer (COO)
- Director of Maintenance
- Director of Transportation
- Procurement Specialist
- Human Resources Analyst
- IT Contract Manager
- Stockton Police Captain

Site Visited

SJRTD Downtown Transit Center

FINDINGS

- 1. A security guard, hired as a contract employee by SJRTD, was paid in excess of the specific terms of his contract. SJRTD's payroll records show that a security guard, hired as a fixed term employee worked a twelve hour day, seven days per week; taking off only two days in the year 2007. The guard worked from January 2007 to July 2007 without a contract at an average monthly compensation of \$7,260. The guard was paid for hours worked beyond the provisions of his contract (exceeding 12 hours per day) and received fuel for his private vehicle at public expense also not provided in his contract. The guard later began using an SJRTD vehicle to make his "rounds" in violation of his contract, which specified that he must furnish his own transportation.
- 2. The American Express (AMEX) Credit Cards, held exclusively by the General Manager/CEO and her Administrative Assistant, were often used in violation of procedures outlined in the SJRTD Procurement Manual. Personal gifts for employees and personal meals are frequently purchased. Gasoline for SJRTD vehicles had been purchased at local retail gas stations for greater than \$3.00 per

- gallon, even though SJRTD Facility gas was readily available at \$2.12 per gallon. A cash rebate of approx \$243 from AMEX is unaccounted for. Late fees and finance charges in excess of \$300 have been charged on the AMEX account.
- 3. Purchase cards (P-Cards) were often used to purchase meals and other food items, in local restaurants, sandwich shops, grocery stores and coffee houses, in violation of published procedures. "Restaurant expenses are allowable charges for the P-card while traveling." Examples include: over \$11,000.00 in food purchases made in 2007, a \$1,038.00 dinner at Mallards restaurant, and an \$800.00 charge made at Starbucks Coffee shop. Meetings were regularly held in local restaurants during the lunch and dinner hours and charged to the P-card.
- 4. Purchase cards were used to purchase items for resale to employees at discounted prices in violation of prescribed (P-Card) use. Regal gift certificates (movie tickets) in increments of \$1,758.00 per purchase, totaling \$8,790.00, were made in 2007. They were purchased to use as gifts for employees for good work and as birthday presents, or they could be purchased by the employees at a discount.
- 5. Final negotiations between SJRTD and the design builder firm for the Downtown Transit Center, involved a contract consultant who had a contractual relationship with both parties. This created an appearance of "conflict of interest" that may have affected SJRTD's standing during the negotiation. A consultant, who was compensated by both SJRTD and the design builder firm of the Downtown Transit Center, played an integral role in negotiating the final disputed construction settlement agreement between both principals. This is a potential conflict of interest as described in Chapter II section 2.2 of the SJRTD Procurement Manual.
- 6. A labor relation consultant was hired to resolve management/union problems at SJRTD. This consultant has continued to be employed after four years even though the labor problem was resolved. The specific requirements of that contract are not being followed or enforced. The consultant has not furnished, nor has SJRTD supplied, "Deliverables" as defined in the contract, as requested by this Grand Jury.
- 7. A consultant was hired to provide training to management employees. It appears this consultant has completed the scope of his initial contract and is currently repeating training assignments completed in the first four years on the job. Such employment results in unnecessary expense to SJRTD, and ultimately, to tax payers. The consultant has not furnished, nor has SJRTD supplied, "Deliverables," as defined in the contract. "Strategy Papers," as required in the contract were not furnished to the Grand Jury as requested. Documents delivered by SJRTD turned out to be extracts from trade publications and letters of recommendation for the consultant. His current compensation is approximately \$9,000.00 per month, plus certain expenses.

- 8. The "Events Coordinator" continued to provide services and was compensated after the 2006 employment contract had expired. A new contract was signed March 13, 2008 and made retroactive to July 1, 2007. Prior payments made in 2007 were charged to the 2006 contract on the invoices. No verification of completed "Deliverables," as defined in the contract, were furnished to this Grand Jury as requested. After a review of several other employment contracts, it was determined that most contractors did not produce the "Deliverables" specified in their contracts. No evaluation system has been established at SJRTD to determine if all contractors are producing a satisfactory result for the agency. Additionally, there is no system in place to determine if and when the contractor has finished the assigned tasks.
- 9. Several employees, consultants, and contractors were hired without the benefit of a competitive hiring process. In some cases, there appears to be the specter of "nepotism". As an example, one consultant managed to have his daughter, and daughter-in-law hired and paid by SJRTD for special projects or activities. In another example, a second security guard was hired to share the workload of the first security guard. He was hired without competitive process, and he is related to the first security guard. These practices, while perhaps not outside the authority of the General Manager, have a tendency to create dissention among the current employees who seek career advancement within SJRTD, and who are not allowed an opportunity to fairly compete for positions within the District. These practices may also contribute to labor unrest.
- 10. Numerous consultants were hired, some with questionable qualifications for the contracted position, without an overall plan for project execution and management. Furthermore, some of the consultants' duties overlap some of the responsibilities of fixed-term employees. For example, two Procurement Specialists, contracts S-2004-020 (dated 6/4/2004) and S-2004-002 (dated 1/27/2004) respectively, contained essentially the same task requirements. However, two individuals were simultaneously employed to do identical assignments.

Also, an Information Technology specialist was converted from independent contractor status in contract S-2005-022 (dated 6/20/2005) to SJRTD fixed-term employee status in contract E-2005-09 (dated 12/01/2005); then converted back to independent contractor status in contract S-2007-016 (dated 8/15/2007). This individual completed the required duties while receiving dual compensation from 12/1/2006 through 3/24/2007.

11. An automobile was purchased with Federal grant money with the intention of using it as a police patrol vehicle. The necessity and the proper authority were not sufficiently explored before the purchase was made. Prior to SJRTD's purchase of the vehicle, SJRTD was already under a service contract with the Stockton Police Department, which included the use of a city police vehicle. The automobile purchased by SJRTD in 2006 was done without Stockton Police Department (SPD) approval as to ownership, operating rules, or responsibility for the vehicle. The vehicle was stored at the SPD corporation yard awaiting installation of

special police equipment. The SPD refused to install all necessary police equipment as it was owned by SJRTD and could not be legally used as a police vehicle. The car has never been put into service. This is a misuse of public funds since the original cost cannot be recovered at this late date.

- 12. The General Manager/CEO of SJRTD has failed to provide a summary of the contracts executed under her authority to the board of directors, as required by the SJRTD Procurement Manual. SJRTD Procurement Manual section 1.3 provides that, "A report summarizing contracts awarded within the General Manager's authority shall be presented to the Board of Directors on a periodic basis, no less than quarterly." Failure to provide this timely report deprives the Board of Directors of the data needed to exercise their responsibility to oversee the operation of SJRTD.
- 13. The General Manager/CEO has exceeded her authority to award and execute contracts on multiple occasions. The Board of Directors set her spending authority at \$150,000. The Chairperson of the Board must sign contracts exceeding that amount. Examples of this misuse of authority may by found in contracts S-2004-031 (dated 10/20/2004) and S-2005-015 (dated 5/9/2005) both in the amount of \$200,000. Section 1.3 of the SJRTD Procurement Manual states that "The Board of Directors shall approve the award of contracts and leases for equipment, supplies, materials, services or construction when the amount to be paid by the District exceeds \$150,000. The chairperson of the Board of Directors shall sign contracts and leases that require approval by the Board." These contracts do not bear the signature of the Chairperson of the Board of Directors.
- 14. A purchase card transaction made by the General Manager/CEO and the Maintenance Director in June 2007 appears to have been done with the intent to circumvent the informal hid process. Two purchase-card transactions in the amount of \$1,784.34 were made on the same date in June 2007 by the General Manager/CEO and Maintenance Director for the same product from the same dealer. Section 4.4 of the SJRTD Procurement Manual describes an "Informal Bidding" process for expenditures exceeding \$2,500. The section also declares that, "The District shall not arbitrarily split contracts or procurements so as to avoid the formal competitive bidding process." Since the total of the two purchases exceeded \$3,500.00, this appears to be a violation of SJRTD procedure.
- 15. SJRTD is not consistent in the use of "retainer agreements" for consultants. The line between salaried employees and those on retainer have been blurred. Some consultants are consistently paid for undocumented services against a retainer and are also paid for partially documented services at an hourly rate. Records reveal that these consultants always receive the maximum allowable payments, whether or not they provide the required "Deliverables" specified in their contract. For some individuals, payments for "retainer" services are akin to payments typically made to a "salaried" employee.

- 16. SJRTD has not effectively used their marketing department to generate advertising revenue on their bus fleet. SJRTD has adequate staffing in their marketing department, yet bus advertising seems to be minimal. Advertising can be an excellent source of revenue. Other transit districts produce significant revenues from advertising and additional revenue would reduce SJRTD's dependence on taxpayer funds.
- 17. Contracts requested from SJRTD by the Grand Jury were not delivered upon our initial requests, and it became necessary for the Grand Jury to petition the Court to issue a subpoena.
- 18. The design of the Downtown Transit Center Construction Project was revised by Change Order after the contract had been awarded to the lowest bidder. The result of the change reduced the cost of the contract price by \$2,481,474. The contract should have been returned to all original bidders to allow for continued participation in the formal bidding process, possibly saving the public additional dollars.
- 19. The General Manager/CEO did not follow SJRTD established procedures for "change orders" during construction of the Downtown Transit Center. To avoid litigation, it became necessary for SJRTD to enter into a negotiated global settlement agreement with the building contractor.
- 20. Thirteen hotel rooms in the cities of Stockton and Lodi were rented to use as meeting rooms at an expense of over \$5,000. in 2007. The Downtown Transit Center has several large and well-appointed conference rooms capable of accommodating meeting room requirements.

RECOMMENDATIONS

- 1. Management develop a policy of examining all contracts for compliance before paying invoices to avoid unnecessary expenditures and assure quality of work.
- 2. The American Express card purchases be subject to greater scrutiny in accordance with "San Joaquin RTD Purchasing Credit Card Procedure." Pay invoices in a timely manner to avoid the addition of interest and late charges. Enforce the policy regarding the purchase of food and gifts to protect taxpayer funds.
- 3. Comply with regulations outlined in Chapter II Standards of Conduct Section 2.2 "Conflict of Interest," whenever a perceived conflict of interest exists.
- 4. Make an immediate assessment of all current consultants to determine if their services still benefit SJRTD.
- 5. Terminate the contract of contractors and consultants when the assignments have been completed by a contractor or consultant.

- 6. Require verification of the "Deliverables" of all contractors and consultants prior to the payment of invoices.
- 7. Make and enforce a clear definition for the provisions of "retainer" payments to assure that contracted "Deliverables" are indeed produced and that they provide desired results. Clearly define hourly performance so as not to conflict with the retainer provisions. Examine all contract "Deliverables" for compliance before invoices are paid to avoid unnecessary expenditures and assure quality of work.
- 8. Establish a written policy to periodically evaluate the achievement of contractors in relation to their assigned task.
- 9. Set a termination date of all new contracts, to be closely monitored by the General Manager/CEO.
- 10. Management utilize "Best Practices" in hiring employees that fairly advertise job openings, so that current employees may experience advancement opportunities when available within SJRTD.
- 11. The Board of Directors and the General Manager establish a periodic review of the ongoing and future tasks of consultants with a goal of coordinating efforts and determining which tasks are better suited for permanent employees.
- 12. The marketing department of SJRTD aggressively pursue opportunities for advertising from merchants and businesses.
- 13. Conduct formal training for all Board Members to become familiar with all policies and procedures described in the SJRTD manuals.
- 14. Enforce sanctions relating to the misuse and abuse of SJRTD funds. (e.g. gasoline purchases, credit card expenses, hotel accommodations, entertainment and food purchases).
- 15. Adhere to written policy and procedures with regard to "change orders" to insure taxpayer funds are not wasted.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Regional Transit District Board of Directors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT - CASE NO. 08-07 STOCKTON UNIFIED SCHOOL DISTRICT

SUMMARY

With the recent bond election and departure of many of the top management staff at Stockton Unified School District (SUSD), the public's attention will focus on the Board of Trustees. Decisions made by the Board in the next year are likely to influence Stockton Unified School District for generations to come. It is of paramount importance that the Board of Trustees makes the most of the opportunity to rebuild SUSD and restore public confidence.

The 2007-2008 Civil Grand Jury finds SUSD's management:

- Participated in the misuse of public funds and attempted to conceal it from elected officials and the Grand Jury
- Has supplanted general funds with restricted (also known as categorical) funds
- Hired consultants to perform work that could have and should have been done by SUSD employees.

The Grand Jury recommends:

- A thorough, independent, annual audit to a level of detail that prevents misuse of funds
- Restricting management's spending authority to a level that prevents abuse
- Establishment of a Foundation to conduct fund raising activity at the district-wide level
- Public access to SUSD records and accounting information to ensure transparency and restore trust.

REASON FOR INVESTIGATION

The 2007-2008 Grand Jury received a written complaint containing specific allegations focused on several activities and events conducted at SUSD that may have been inappropriate or possibly illegal. Details provided by the complainant were substantive and piqued the interest of the Grand Jury.

After completing a preliminary investigation, the Grand Jury voted to open a formal investigation of the following:

- 1. Excessive use of consultants
- 2. Inappropriate use of restricted state and federal funds (supplanting)
- 3. Inappropriate and unethical use of school district funds.

BACKGROUND

During the 2006-2007 school year Stockton Unified School District (SUSD) was the 17th largest school district in California, with an enrollment of 38,617 students. SUSD had the largest total enrollment of any school district in San Joaquin County and operated 56 schools, including 5 high schools and employed 1778 full-time equivalent teachers.

Annual expenditures for SUSD during the 2006-2007 school year were approximately \$317 million, of which 63% was spent on instruction. 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.

During the 2006-2007 school year, SUSD received approximately 35% of their total revenue from restricted State and Federal funds. At that level, restricted revenue is approximately 122% of the statewide average for school districts.

SUSD is administered by a seven member Board of Education. Trustees represent districts within SUSD and serve four-year terms. Board meetings are held on Tuesdays at 7:00 p.m. in the Boardroom, 701 N. Madison St., Stockton, California. Meeting dates and agenda are posted on-line at http://www.stockton.k12.ca.us/SUSD/welcome/board.htm

The Superintendent recently announced his retirement after completing a two-year term. Other managers have recently announced their retirement as well, leaving a void in top management during what is a critical time as implementation of the bond (Measure C) begins.

METHOD OF INVESTIGATION

Materials Reviewed

- 30+ SUSD Purchase Orders with applicable receipts and contracts
- SUSD accounting of Celebrity Waiter's Luncheon and All Sports Clinic (several versions of each)
- California Dept. of Education Guidelines for School Safety and Violence Prevention Act (AB1113)
- 20+ Newspaper articles
- Report of Investigation, Office of the District Attorney, San Joaquin Co.
- Letter to US Dept. of Education, Office of the District Attorney, San Joaquin Co.

- California Education Code, Section 32228 32228.5, Allowable Uses of School Safety and Violence Prevention Act Funds
- Consultant Contracts for SUSD Chief Financial Officer and District-Wide Athletic Director
- Vacancy Announcement and Job Description for Chief Financial Officer position
- SUSD Human Resources Dept. procedure for District Administrator Selection Process
- SUSD Board Policy relating to Conflict of Interest
- SUSD Contracts with Boys and Girls Club of Stockton
- California Dept. of Education "Ed-Data" statistical reports
- SUSD High Speed WAN Request for Proposal, Bid Protest, Response, Appeal
- SUSD Consolidated Application for Funding of Categorical Aid Programs, 2006-2007
- Draft SUSD Bond Report, 2008
- SUSD website http://www.stockton.k12.ca.us/
- 2008-2007 budget staffing changes from Superintendent to Board of Education Resource and Infrastructure Committee
- Requests to the Board from management for changes in funding and consultants
- Cabinet meeting notes on Ed Services updates and questions
- Categorical program descriptions
- Budget items 2006-2007 and 2007-2008

Interviews Conducted

- Several SUSD Trustees
- Superintendent, SUSD
- Chief Financial Officer, SUSD
- Chief Accountant, SUSD
- Human Resources Director, SUSD
- SUSD Business Office Employees
- Business Owner and Supplier to SUSD
- Program Specialist, San Joaquin Co. Office of Education
- Program Specialist, California Dept. of Education

Sites Visited

SUSD Board Meeting

FINDINGS

1. The Superintendent has authority to hire administrative, non-instructional consultants for up to \$50,000 without Board approval.

- 2. SUSD management contracted with sports figures to speak at a one-day All Sports Clinic. Five individuals were paid consulting fees of \$5000 plus mileage and another 28 individuals were paid between \$1000 and \$2000. \$5000 is more than most high school coaches make in a season.
- 3. SUSD management hired a large number of consultants for administrative, non-instructional positions. Many of their duties were already being performed by district employees. The following examples were found:
 - A consultant was hired to train SUSD staff on how to legally use restricted State and Federal funds. SUSD had an employee in charge of the same funds.
 - Two consultants were hired to work 2-3 days per week to evaluate high school principals, directors and administrators.
 - Consultants were hired to write the GEAR UP grant. SUSD already had two grant writers.
 - Two consultants were hired to inventory the vocational/career tech program. The Program Director traditionally completed this task.
 - The Chief Financial Officer was initially hired as a consultant and later became a salaried SUSD employee. When the position was converted from consultant to salaried employee, the position was advertised competitively, applications taken, interviews conducted and a selection made according to SUSD procedure.
 - The District-wide Athletic Director position was created and filled without advertising, applications or interviews. SUSD policy grants authority to the Superintendent to create and fill positions under certain circumstances.
- 4. Restricted (categorical) funds are designed with specific requirements to enhance the regular educational program. They are intended to supplement, not supplant, the regular educational program. Restricted funds cannot be used to support services that would otherwise be provided through general unrestricted funds. Positions or expenditures previously funded by unrestricted funds cannot be shifted to restricted funds.

There are numerous instances where SUSD has misused restricted funds:

- Targeted Instructional Improvement Grant (TIIG) restricted funds were used to pay salaries of 8 Visual and Performing Arts (VAPA) teachers previously paid from general funds.
- School Safety and Violence Prevention Act (AB1113) funds were used to pay approximately \$90,000 in costs associated with the All Sports Clinic. It appears the use of the funds for this purpose was a clear violation of readily available State guidelines.
- Job descriptions for more than 15 vice-principals are being changed for the 2008-2009 school year so they can be paid from restricted funds.
- English Language Learner (ELL) Title III restricted funds were used to purchase Algebraic Thinking, a comprehensive math intervention program (including materials and training) for use by <u>all</u> intensive math students grade 5-8, including non-ELL students, at several schools.

- 5. SUSD management did not prepare a thorough, detailed accounting for the Celebrity Waiter's Luncheon held in March 2007 and the All Sports Clinic held in April 2007. The Grand Jury discovered that there were at least three incomplete versions.
- 6. SUSD management made numerous questionable purchases using District funds. The Grand Jury finds the District-Wide Athletic Director:
 - On more than one occasion, requested payments from SUSD for alcoholic beverages at Alioto's restaurant in San Francisco and attempted to conceal one purchase by claiming it was "food to go." Once SUSD staff discovered this, the Superintendent reimbursed the District from his personal funds
 - Requested payment from SUSD for the use of a limousine
 - Failed to follow SUSD purchase policy on multiple occasions.
- 7. Athletic Department staff approached a vendor with the district and pressured that vendor for a cash donation for the Celebrity Luncheon.
- 8. SUSD management initially refused to provide information to the Grand Jury. While information was ultimately obtained through subpoena, it did little to reassure honesty, integrity and accountability of SUSD management.
- 9. The extreme level of bickering and animosity among SUSD Trustees and management is not conducive to resolving issues and reduces public confidence.

RECOMMENDATIONS

- 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 Trustees limit the use of non-instructional and administrative consultants to specific, short term jobs. The primary responsibility of running the District belongs with SUSD employees.
- 3. SUSD Trustees re-examine the policy of allowing the Superintendent to create positions and hire employees without a competitive application process.
- 4. 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 Trustees or a committee of Trustees periodically review purchases made by management as a whole and by individual management team members to ensure strict written guidelines are enforced.

- 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.
- 7. 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 management provide thorough and accurate accounting of all district-wide fund raising activities undertaken by SUSD. The information be available to the public on demand.
- 9. SUSD Trustees ensure SUSD management is held accountable for their actions.
- 10. 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.
- 11. The Board of Trustees manage the recent bond measure in a timely and effective manner and regain the public's confidence.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Stockton Unified School District Board of Trustees shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT – CASE NO. 09-07 SAN JOAQUIN COUNTY ANIMAL CONTROL

SUMMARY

The 2007/2008 Civil Grand Jury investigated a complaint of alleged government inaction concerning a barking dog. The investigation determined that, perhaps unknown to the complainant, significant action had in fact been taken by San Joaquin County Animal Control and the situation was ultimately resolved to the satisfaction of the complainant. No recommendations are being made and the Grand Jury compliments Animal Control for their handling of this issue.

REASON FOR INVESTIGATION

A citizen reported that San Joaquin County Animal Control ignored her repeated complaints about a neighbor's barking dog and that nothing was being done to solve the problem. The Civil Grand Jury decided to investigate this specific complaint as well as to investigate how Animal Control handles barking dog complaints in general. Allegations of government inaction always warrant at least a preliminary investigation by the Grand Jury. Based on the information found in this preliminary investigation, including the fact that barking dogs are a problem statewide, the Grand Jury decided to conduct a formal investigation in order to produce a public report on the issues and facts involved.

BACKGROUND

Animal Control is a Division of the San Joaquin County Agricultural Commissioner's Office. Its mission is to protect public safety regarding animal issues and to promote and protect the welfare of animals. Its responsibilities include rabies control, license enforcement, humane investigations, general field enforcement and code enforcement. The Animal Control Division also provides assistance with predatory animals, investigates complaints of animal abuse or neglect, and takes appropriate action to deal with other problems associated with the care and control of animals. This assistance includes the barking of dogs.

METHOD OF INVESTIGATION

The investigation was conducted during December 2007 and January 2008. The material reviewed, interviews conducted, and sites visited are listed below.

Materials Reviewed

- California Animal Laws Handbook (2006)
- San Joaquin County Ordinances on animal control (including barking dogs)
- All computerized records of action taken concerning the complaint
- Hand written contact sheets showing action taken and the satisfactory conclusion.

Interviews Conducted

- The Agricultural Commissioner
- The Deputy Agricultural Commissioner (Acting Head of Animal Control)
- Complainant

Sites Visited

- The Agricultural Commissioner's Office and Animal Control Division
- The dog owner's home
- The complainant's home

FINDINGS

- 1. Barking dog complaints are very hard for Animal Control to verify, especially when the dog is barking at night. The Animal Control Division provides after hours services for emergency calls only, and just one officer provides service for the entire county.
- The first step in responding to a barking dog complaint is to send a letter to the dog's owner. A second complaint about the same dog results in a second letter being sent. A third complaint results in a Notice of Violation being sent. Sometimes multiple Notices of Violation are sent.
- 3. If the issue is still unresolved, the animal control officer must go to the location and actually hear the dog barking. The dog must be barking unprovoked, and the unprovoked barking must go on for 10 minutes. A citation can then be issued which can result in a fine imposed by a judge. However, Animal Control tries to resolve the issue prior to issuing a citation. They talk to the dog owner and see if the complaint can be resolved amicably. See Appendix A Animal Control Ordinance Section 6-1021.
- 4. Based on the documentation provided by animal control and discussions with them, the complainant's allegation of nothing being done was determined to be unfounded. A possible reason for the complainant thinking nothing was being done was because the first two notices were sent to the wrong address. This error was corrected in June and Animal Control subsequently took more than 10 actions between June 2007 and

December 2007 to try to resolve this issue. Animal Control Officers went to the location to try and hear the barking. However, criteria for issuing a citation were never met.

5. After an Animal Control Officer met with the complainant and the dog owner in December, the final action on December 12, 2007 has resolved the issue to the satisfaction of both the complainant and the dog owner.

RECOMMENDATIONS

The San Joaquin County Grand Jury has no recommendations for this issue. However, we would like to compliment County Animal Control for its handling of this issue. They took significant action to try to resolve the problem and were ultimately successful.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation:

None Required

<u>APPENDICES</u>

1. San Joaquin County Ordinance Sections 6-1000 through 6-1029 known as "The Animal Ordinance."

APPENDIX

(DIV 1) CHAPTER 1 ANIMAL CONTROL

6-1000 TITLE.

6-1001 ANIMAL CONTROL OFFICER.

6-1002 POWERS AND DUTIES OF ANIMAL CONTROL OFFICER.

6-1003 POLICE POWERS.

6-1004 ENTERING UPON PREMISES.

6-1005 LICENSE REQUIRED.

6-1006 EXEMPTIONS.

6-1007 VACCINATION AGAINST RABIES/PREREQUISITE OF LICENSE.

6-1008 VACCINATION.

6-1009 PUBLIC CLINICS.

<u>6-1010 LICENSE FEE.</u>

6-1011 Repealed by Ord. 3572.

6-1012 LOST CERTIFICATES AND TAGS.

6-1013 COUNTERFEITING AND REMOVAL OF TAGS.

6-1014 TAGS TO BE WORN.

6-1015 INSPECTIONS.

6-1016 REDEMPTION OF IMPOUNDED ANIMALS.

6-1017 SALE OF UNCLAIMED LARGE ANIMALS.

6-1018 FINES AND CHARGES FOR IMPOUNDED ANIMALS.

6-1019 NOTICE TO OWNER.

6-1020 CONTROL OF DOGS.

6-1021 BARKING DOGS.

6-1022 FEMALES AT LARGE.

6-1023 DANGEROUS DOGS.

6-1023.1 IMPOUNDMENT AND DESTRUCTION AUTHORIZED.

6-1023.2 HEARING AUTHORIZED.

6-1024 DEAD ANIMALS.

6-1025 OTHER ANIMALS.

6-1026 ABANDONED ANIMALS.

6-1027 INTERFERENCE WITH DUTIES.

6-1028 FURNISHING INFORMATION.

6-1028.1 HORSE TRIPPING.

6-1029 PENALTY.

6-1000 TITLE.

This chapter shall be known as "The Animal Ordinance." (Ord. 3027)

6-1001 ANIMAL CONTROL OFFICER.

The Division of Animal Control is in the Agricultural Commissioner's Office. The position of Animal Control Officer and that of any assistant or deputy shall be filled pursuant to ordinances or regulations of the County and shall be under the supervision of the Agricultural Commissioner. Nothing in this chapter, however, shall prevent the Board of Supervisors from entering into contractual arrangements with other persons to perform any or all of the duties of the public pound. (Ord. 3027)

6-1002 POWERS AND DUTIES OF ANIMAL CONTROL OFFICER.

The Animal Control Officer shall take up and impound:

- (a) Any dog not licensed by a jurisdiction requiring rabies vaccination.
- (b) Any dog at large on any public street, road, alley, park, school premises, public housing project, trailer court, auto court, other public place, or upon private property other than the property of the person controlling the dog without the consent of the owner of said property.
- (c) Any dog that a health officer requires to be isolated pursuant to Section 2606 of Title 17 of the California Administrative Code.
- (d) Any animal at large, staked, tied or being herded or pastured in any street, lane, alley, court, square, park, or other place belonging to or under the control of the County or upon private property in this County contrary to the provisions of this chapter.
- (e) Any dangerous dog or other animal that constitutes a threat or hazard to the safety of any other person. (Ord. 3027)

6-1003 POLICE POWERS.

- (a) The Animal Control Officer may arrest a person without a warrant whenever there is reasonable cause to believe that the person arrested has committed a misdemeanor or infraction in the Officer's presence which is a violation of Animal Control Laws.
- (b) The Animal Control Officer and all assistants and deputies may carry weapons when acting in the course and scope of their employment. Such weapons shall be limited to those approved by the Agricultural Commissioner and supplied by the County. Handguns may be used only when issued by the Animal Control Officer for a specific and limited task. (Ord. 3027)

6-1004 ENTERING UPON PREMISES.

The Animal Control Officer is authorized to enter upon the lands or premises where any animal is kept for the purpose of taking up, seizing, or impounding any animal running, at large, staked, herded, or grazing thereon contrary to the provisions of this chapter or for the purpose of ascertaining whether any provision of this chapter or any law of the County or State relating to licensing, vaccination, or care, treatment, or impounding of any animal is being violated. (Ord. 3027)

6-1005 LICENSE REQUIRED.

No person shall own, keep, maintain, or harbor any dog, within the unincorporated area of the County, for ten (10) days or longer, unless such dog is licensed as herein required. (Ord. 3027)

6-1006 EXEMPTIONS.

- (a) A license is not required for any dog under the age of four (4) months if confined to the premises of, or kept under control by, the owner or custodian of the dog.
- (b) A license is not required for any dog which has a current license from another city or county if vaccinated against rabies as required by this chapter. This subsection applies only to dogs brought into the unincorporated area of the county from another jurisdiction.
- (c) No license fee shall be required for the issuance of a dog license to any person owning or having control of any dog trained to aid or assist handicapped persons for visual or audio reasons or any dog under the age of one (1) year if under the supervision or direction of a holder of a certificate issued pursuant to the provisions of Chapter 9.5 (commencing at Section 7200) of Division 3 of the Business and Professions Code.
- (d) A license is not required for any dog owned by any person possessing a kennel use permit. (Ord. 3027; 3246; 3572; 3636)

6-1007 VACCINATION AGAINST RABIES/PREREQUISITE OF LICENSE.

A license shall not be issued for any dog which has attained the age of four (4) months, or over, unless a primary rabies inoculation of an approved vaccine has been administered and a valid certificate of vaccination is presented with the license fee. The official certificate of

vaccination, signed by a licensed veterinarian, shall indicate the date of vaccination, the type of vaccine used, and the age of the dog. Dogs shall be revaccinated with an approved type of rabies vaccine, one (1) year (12 months) after the primary immunization. The certificate shall be accepted as valid if the period of time between the date of vaccination and the date of expiration of the license does not exceed thirty-six (36) months, in the case of modified virus or inactivated virus vaccine approved by the California Department of Health Services. The requirement that any dog which has attained the age of four (4) months, or over, shall be vaccinated against rabies as a prerequisite to issuance of a license shall continue in force and effect until the termination of the presently effective declaration of the County as a rabies area and the expiration of one (1) year after the declaration, or until the Director of the State Department of Public Health finds and declares that the County has ceased to be a rabies area, whichever first occurs. (Ord. 3027; 3246)

6-1008 VACCINATION.

No person shall keep, harbor or maintain any dog over the age of four (4) months within the unincorporated area of the County unless such dog shall have been vaccinated by a licensed veterinarian with a canine rabies vaccine approved by and in the manner prescribed by the State Department of Public Health. (Ord. 3027)

6-1009 PUBLIC CLINICS.

The San Joaquin Local Health Districts shall establish public dog vaccination clinics at such times and places as deemed necessary by the District Health Officer. The charge for vaccination at these clinics shall not exceed the actual cost involved. Nothing contained herein shall prevent the owner of a dog from having the dog vaccinated by a licensed veterinarian of his own choice. (Ord. 3027)

6-1010 LICENSE FEE.

- (a) The dog license fee schedule shall be established by Resolution. These fees shall be due and payable annually for any dog that has reached the age of four (4) months of age. Fee shall be delinquent after sixty (60) days. The fees collected hereunder shall be deposited to the credit of the rabies treatment and eradication fund until an order has been issued by the State Department of Health declaring that the County is free from rabies or further danger of its spread. Thereafter said fees shall be paid into the County Treasury and placed into the general fund.
- (b) Licenses shall be transferable on change of ownership upon the payment of a fee of one dollar (\$1.00). Licenses shall not be transferable from one dog to another. (Ord. 3027; 3572; 3636)

6-1011 Repealed by Ord. 3572.

6-1012 LOST CERTIFICATES AND TAGS.

Whenever a license certificate or tag has been lost or destroyed, a duplicate shall be issued upon payment of a fee of one dollar (\$1.00) and satisfactory proof of the loss and of the identity of the dog. (Ord. 3027)

6-1013 COUNTERFEITING AND REMOVAL OF TAGS.

No person shall make or have in his possession or place on any dog a counterfeit or imitation of any tag issued by the Animal Control Officer, nor shall any person other than the owner or custodian, remove any tag from any dog. (Ord. 3027)

6-1014 TAGS TO BE WORN.

The dog tag shall be securely fastened to a substantial collar or body-harness. The dog shall wear the tag at all times. (Ord. 3027)

6-1015 INSPECTIONS.

Upon demand of the Animal Control Officer, the owner of any dog shall permit the inspection thereof at all reasonable times as may be necessary for the enforcement of the provisions of this chapter and shall display for his inspection the tag or license certificate for that dog. (Ord. 3027)

6-1016 REDEMPTION OF IMPOUNDED ANIMALS.

- (a) Within three (3) days the owner may redeem an impounded animal by paying the required fees. At the end of three (3) days the Animal Control Officer or Poundkeeper may sell an impounded animal or place it in a home or destroy it in a humane manner.
- (b) The owner of any dog or cat placed in a new home may redeem the dog or cat upon payment to the new owner of a sum equal to the license fee together with costs of advertising, reimbursement of the purchase price, and, in addition thereto, the sum of five dollars (\$5.00) if redeemed within thirty (30) days after the sale. Failure to redeem the dog or cat within thirty (30) days shall constitute forfeiture of all rights of ownership. (Ord. 3027)

6-1017 SALE OF UNCLAIMED LARGE ANIMALS.

The Animal Control Officer may sell any large animal three (3) days after publishing a notice of sale in a newspaper of general circulation. The notice shall contain a general description of the animal and give the time and place of the sale. The sale shall be to the highest bidder. The proceeds from the sale shall be used first to pay impound fees, feed costs, and sale costs, and then to the general fund. (Ord. 3027)

6-1018 FINES AND CHARGES FOR IMPOUNDED ANIMALS.

The Animal Control Officer shall charge and collect fees for impounded animals when claimed as set by resolution of the Board of Supervisors. (Ord. 3027; 3437; 3637)

6-1019 NOTICE TO OWNER.

The Animal Control Officer shall attempt to locate the owner of any licensed dog found running at large which has been impounded and notify the owner of the fees and charges for the impoundment and where the dog may be redeemed. Failure or refusal to pay the fees and charges after due notification of the impounding within three (3) days shall be deemed an abandonment of the dog by the owner. Thereafter the dog may be disposed of in the same manner as unlicensed dogs. (Ord. 3027)

6-1020 CONTROL OF DOGS.

- (a) The provisions of this subsection apply to the those zones that are regulated by Title 9 of the County Ordinance, and are classified as Residential, Rural Residential, and those zones classified as Commercial and Industrial that are adjacent to or bounded by those areas.
- (1) No owner or custodian of any dog shall allow such dog to remain at large on any public property without restraint by means of a leash.
- (2) No owner or custodian of any dog shall maintain such dog on private property unless the property is fenced in such a manner as to restrain the dog or the dog is secured within a structure, or the dog is restrained by means of a leash.
- (b) No owner or custodian of any dog shall allow such dog to remain upon the private property of another without the consent of the property owner. (Ord. 3027)

6-1021 BARKING DOGS.

No person shall keep or permit to remain on any premises within the County of San Joaquin any dog which continuously and incessantly barks at any time during the day or night to the disturbance of any other person. Continuous and incessant barking is defined as frequent barking for a period of ten (10) minutes or more duration, which disturbs the peace of another person, including howling, crying, baying or making any other noise, provided that at the time of the complaint no person or persons were trespassing or threatening to trespass upon the private property of the owner or person in custody or control of the dog, or the dog was not being teased or provoked in any manner. (Ord. 3027)

6-1022 FEMALES AT LARGE.

- (a) Except for the purpose of exercising and while under strict control of the owner, no owner shall permit any female dog to run at large at any time during the period when the dog is in heat or breeding condition.
- (b) For purposes of this section, "at large" means outside a house, garage, building or other closed structure. (Ord. 3027)

6-1023 DANGEROUS DOGS.

Upon knowledge of the whereabouts of a dangerous dog, the Animal Control Officer shall immediately conduct an investigation of the matter for the purpose of verifying the report. If he finds that the dog has bitten or shows a propensity to attack, bite, scratch or harass people or other animals without provocation, he shall notify the owner in writing and direct that henceforth the dog be kept within a secured enclosure, or securely leashed and muzzled so as to prevent its biting or further attacking of any person or any other animals. This order shall go into effect immediately. Failure to comply with the order shall constitute a misdemeanor and the owner of such animal may be subject to the provisions in Section 6-1023.1. (Ord. 3338)

6-1023.1 IMPOUNDMENT AND DESTRUCTION AUTHORIZED.

- (a) If upon receiving written notification, the owner of a dangerous dog fails to comply with the restrictions as ordered, the owner is in violation of this title and the Animal Control Officer is empowered to seize, impound and destroy such dog pending the provisions in Section 6-1023.2.
- (b) The Animal Control Officer may impound and destroy any dog found in the act of biting, attacking and constituting a threat or hazard to the safety of any other person. (Ord. 3338)

6-1023.2 HEARING AUTHORIZED.

- (a) When a dangerous dog has been impounded under the provisions of this chapter, the owner has five (5) working days to contact the Animal Control Officer and request a hearing to show cause why the dog should not be destroyed.
- (b) If after five (5) working days the owner has not contacted the Animal Control Officer to request a hearing, the dangerous dog may be destroyed without further delay.
- (c) The hearing required pursuant to this section shall be conducted by a panel composed of the County Counsel, the Agricultural Commissioner or their designee and a third person selected by the County Counsel and the Agricultural Commissioner.
- (d) Change of ownership or residence: The owner of a dangerous dog who sells or transfers ownership, custody or residence, shall notify the Department in writing of the intended transfer of residence and provide the name, address and telephone of the new owner or custodian. (Ord. 3338)

6-1024 DEAD ANIMALS.

- (a) It shall be the duty of the owner of any animal that dies in the unincorporated area of the County to dispose of the carcass within a reasonable time by eremation, burial, or other lawful means.
- (b) Whenever the Animal Control Officer is notified of the existence of the carcass of any dead animal which has not been disposed of in the manner prescribed by subdivision (a) of this section, he shall proceed with the disposition. In this case, the owner shall be liable for treble the expenses incurred to be recovered in a civil action instituted by the County.
- (c) The Animal Control Officer shall dispose of the carcass of any unidentified dead animal

and the remains of any fish or fowl found in the unincorporated area of the County. (Ord. 3027)

6-1025 OTHER ANIMALS.

No person owning or having control of any domestic animal or any animal commonly referred to as a "wild species" shall:

- (a) Permit the animal to run at large in the County, or cause or permit the animal to be pastured, staked, or tied in any street, lane, alley, park, or other public place; or
- (b) Tie, stake, or pasture or permit the tying, staking, or pasturing of the animal upon any private property within the limits of the County, without the consent of the owner or occupant of the property, or in such a way as to permit the animal to trespass upon any street or public place or upon private property; or
- (c) Fail to secure during the nighttime any of these animals by means of a tether or enclosure that is sufficient to effectively restrain the animal; or
- (d) Fail to provide the necessary sustenance, drink, shelter or protection from the weather, or otherwise harm, mistreat, or abuse animals; or
- (e) Permit any chickens, geese, ducks, turkeys, pheasants, doves, pigeons, squabs or similar fowl or rabbits, to run or fly at large or go upon the premises of any other person in the County without the consent of the owner or occupant of the property. (Ord. 3027)

6-1026 ABANDONED ANIMALS.

No person shall abandon any domestic animal or an animal commonly referred to as a "wild species" in the County. (Ord. 3027)

6-1027 INTERFERENCE WITH DUTIES.

No person shall interfere, resist, hinder, molest, or obstruct the Animal Control Officer in the performance of his duties under this chapter. (Ord. 3027)

6-1028 FURNISHING INFORMATION.

No person knowingly shall withhold from the Animal Control Officer any information as to the whereabouts of any dog known to be or suspected of being rabid or dangerous. (Ord. 3027)

6-1028.1 HORSE TRIPPING.

- (a) It is unlawful for any person to intentionally trip or fell an equine by the legs by any means whatsoever for the purposes of entertainment or sport.
- (b) Notwithstanding Section 6-1029, violations of this section shall be a misdemeanor.
- (c) This ordinance shall remain in effect until such time as there is State of California legislation prohibiting horse tripping. (Ord. 3792)

6-1029 PENALTY.

Any person violating any provision of this chapter with the exception of Section 6-1023 shall be guilty of an infraction and upon conviction may be fined not more than fifty dollars (\$50.00) for the first offense, and one hundred dollars (\$100.00) for a second or subsequent offense. (Ord. 3027)

69



Grand Jury

County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
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FINAL REPORT - CASE NO. 10-07 MARY GRAHAM CHILDREN'S SHELTER

SUMMARY

New facilities, procedures, and management at Mary Graham Children's Shelter (MGCS) have been in place for over five years, yet many problems persist. A serious communication problem between the Assistant Director and a number of Shelter Supervisors has led to a morale problem. Some Shelter supervisors are resistant to change and to the methods employed by management. The census at the shelter has dropped yet there has been a significant increase in staff during the past four years. The 2007-2008 Civil Grand Jury recommends a thorough evaluation of all management and staff positions.

REASON FOR INVESTIGATION

The 2007-2008 Civil Grand Jury received a complaint that the Assistant Director emotionally and verbally abused and harassed children, counselors and supervisors at MGCS. The complainant further alleged that the Assistant Director's behavior has resulted in a dramatic drop in the number of children brought to MGCS by Child Protective Services social workers.

An additional complaint was received questioning the high ratio of staff to children and the total cost of operating MGCS. The complaint also questioned the Assistant Director's style of management as being forceful, and confrontational. The complaint further reported that attempts to discuss issues with management results in job security trepidation, e.g., "If you don't like it you don't have to work here."

BACKGROUND

Mary Graham Children's Shelter provides emergency short-term care for abused and neglected children in San Joaquin County. Since the early 1960s MGCS has provided 24-hour emergency care for children in need of protection services, due to suspected abandonment, physical or sexual abuse, neglect, or exploitation, and for whom there is no appropriate home or relative available. Many children that pass through MGCS are subsequently reunited with their parents or they are placed with family members. Others are placed into foster-care.

The work at MGCS is difficult and challenging and requires people who are knowledgeable, flexible and dedicated.

MGSC is a division of the County of San Joaquin Human Services Agency and operates under the auspices of the California Department of Social Services (CDSS), the San Joaquin County Board of Supervisors and the Juvenile /Dependency courts.

There have been many changes at MGCS during the last eight years. A long-time Director left and the current Director was appointed in 2002 after two other directors resigned within a one-year period. There was disagreement between the Human Services Agency and the San Joaquin Board of Supervisors over hiring policies and lines of accountability for the new Director. CDSS Community Care Licensing came into effect in 2002. New facilities were completed in 2003. In the last few years there has been a drop in the census of children at MGCS with staff levels as high as two staff to one child.

METHOD OF INVESTIGATION

Interviews Conducted

- Director of Human Services Agency of San Joaquin County
- Administrator of the Human Services Agency's Children's Services division
- Director of Mary Graham Children's Shelter
- Assistant Director of Mary Graham Children's Shelter
- Supervisors at MGCS

Materials Reviewed

- Mary Graham Children's Shelter Manual
- Mary Graham Children's Shelter Employee handbook
- Citations by the Community Care Licensing
- Juvenile Justice Delinquency Prevention Commission (JJDPC) Mary Graham Children's Shelter Review 2006
- Response by Mary Graham Children's Shelter to JJDPC Review
- Employee Harassment Complaint to the Human Services Agency (HSA)
- County of San Joaquin 2007-2008 Proposed Budget
- County of San Joaquin 2007-2008 Final Budget
- 2001/2002 Grand Jury Final Report of MGCS Case #2000
- San Joaquin County Response to 2001/02 Grand Jury Report Case #2000

Sites Visited

Mary Graham Children's Shelter – Grand Jury site visit prior to this investigation

FINDINGS

- 1. There are serious communication problems at MGCS resulting in low staff morale.
- 2. The Assistant Director's forceful management style has hampered team building and is not conducive to good staff morale.
- 3. There are some long time staff members who are discontented and are resistant to change and management.
- 4. The Director of MGCS is often unavailable. His absenteeism has compromised the progress of MGCS.
- 5. The Director of Human Services Agency is aware of the issues at MGCS and has taken steps to address them, but without success.
- 6. The MGCS Manual and the Employee Handbook have not been updated for years. New policies have been reviewed by staff and signed off, but not yet promulgated.
- 7. Changes in the use of MGCS and changes in the criteria Child Protective Services uses to bring children there have resulted in a significant drop in the census without a corresponding drop in staff. In fact, there has been a significant <u>increase</u> in full-time staffing during the past four years.
- 8. MGCS is able to accommodate 62 children but has been well below that level for several years. The fluctuation in the number of children makes it difficult to schedule MGCS staff on daily basis.
- 9. This Grand Jury found no reason to believe that children at MGCS are mistreated or abused.

RECOMMENDATIONS

- Evaluate management positions and restructure MGCS management to clearly designate the function and responsibility of each manager. Strengthen Administrative functions.
- 2. Evaluate staffing and adjust it to financially defendable levels, recognizing all of the needs in San Joaquin County, not just the needs of MGCS.
- 3. Continue to work on communication issues at MGCS. Management needs to clearly explain their reasons for change and listen carefully to concerns of their staff.

- 4. Institute regular anonymous staff surveys to gauge MGCS effectiveness.
- 5. Provide MGCS staff access to counseling services to address not only personal, but also work related stress. MGCS is a stressful work environment.
- 6. Update the MGCS Manual and the Employee Handbook.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.





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FINAL REPORT – CASE NO. 01-07(A) FOLLOW UP REPORT CITY OF STOCKTON COMMUNITY DEVELOPMENT BUILDING PERMIT FEES

REASON FOR INVESTIGATION

This report is a follow-up to the investigation conducted and the recommendations made by the 2006-2007 Grand Jury (Case No.02-06). The case originated from a citizen complaint received by the Grand Jury alleging that an adjustment of the fees in 2001 was done because of a mistaken conclusion that the plan check fees had not been included in the calculation. In addition, the department did not conduct an analysis of cost versus revenue to justify the fees as required by the law. The complainant further alleged that the excessive fees were claimed to have been collected to repay ten (10) years of deficit operation by the Community Development Department, during which time budget funding came from the City's General Fund.

The 2007-2008 Grand Jury conducted a follow-up investigation to determine the amount of progress made in addressing the prior year's recommendations.

BACKGROUND

The Community Development Department calculates fees to be charged for building permits and plan check fees in the City of Stockton. This combination fee is designed to cover the costs of the department in inspecting each component of a structure's plan and construction. The 2004-2005 Civil Grand Jury looked at the action taken in 2001 and formulated a number of findings suggesting that the City of Stockton had charged excessive fees to builders since 2001, generating more that \$40,000,000 in revenue. This revenue was transferred into the City's General Fund. The 2006-2007 Civil Grand Jury decided to continue to investigate this matter, finding along with the 2004-2005 Jury that in fact the City of Stockton had been overcharging for building permit fees. The 2006-2007 Grand Jury also found that by law, this department could not charge more for their fees than they expensed to operate the department. The Grand Jury was informed that an outside consulting firm had been hired to estimate the cost of operating the department and set the fees based on those costs. Several recommendations were made by this Grand Jury and this report addresses those recommendations.

METHOD OF FOLLOW-UP INVESTIGATION

Interviewed City of Stockton Finance Director

Reviewed the following documents:

- All financial documents provided by the City of Stockton
- Assessment materials for increase or decrease of building permit fees from fiscal year 2000-2001
- Building division budget from year 2000 to present

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY

1. The City of Stockton needs to fully establish, document, and disclose the cost of operating this department so that any adjustment in permit fees are reasonable and in compliance with the law.

2007-2008 Grand Jury Finding: Though the costs are reported in the annual budget for the City of Stockton, it is extremely difficult to determine whether in fact those numbers are reasonable. The study by Muni Financial has not been completed and therefore there is no viable document for understanding both costs and fees.

2. The City of Stockton, at the time of a resolution changing permit fees, must inform the public ahead of time and conduct a public meeting which meets the test of full disclosure. A full and complete cost analysis must be presented and discussed with the public being given the opportunity to provide comment on the proposed change.

2007-2008 Grand Jury Finding: The City of Stockton does notice public meetings, but until the study regarding costs versus fees is in place, the public is not getting all the required information.

3. The Community Development Department should be audited on a mandatory basis every two years. Based on the findings of the audit, the department should adjust fees according to law.

2007-2008 Grand Jury Finding: The City of Stockton states in its response that they will be reviewing the fee schedule every year and that they will use the template developed by Muni Financial to determine the cost of providing services. Problems arose with Muni Financial and their ability to satisfy the criteria needed to complete the study. Since the City of Stockton had not set a definite completion date, the date promised for delivery of this template was not met. It was further determined by the City of Stockton that Muni Financial was not capable of completing the building cost portion of the study. The City has hired Revenue Cost specialists to fulfill the building cost portion, but no definitive due date has as yet been established. As long as this study is not complete, the public cannot be assured of the true cost of providing services.

4. Based on the outcome of the cost study by Muni Financial, due on July 1, 2007, the Community Development Department should carefully review fee levels to ensure that revenue matches cost and take steps to adjust, if necessary.

2007-2008 Grand Jury Finding: Though the City of Stockton indicated this recommendation would be implemented, the cost study is not complete. The Grand Jury has received a "draft" copy of the Muni Financial study, but the Revenue Cost Specialists study has not been completed. This jury is concerned that without this study, the fees being charged may not be in compliance with law.

5. The City of Stockton should provide a copy of the Muni Financial study to the 2007-2008 Civil Grand Jury as soon as it is available.

2007-2008 Grand Jury Finding: The 2007-2008 Grand Jury awaits the independent cost analysis study for review.

RECOMMENDATIONS

The 2007-2008 Civil Grand Jury makes the following recommendation:

- 1. Since the City of Stockton cannot depend on Muni Financial, it is incumbent on the city to provide an independent cost analysis study by July 1, 2008.
- The City of Stockton give definitive completion dates when awarding contracts for cost studies.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The Stockton City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT - CASE NO. 01-07(B) FOLLOW-UP REPORT CITY OF STOCKTON CODE ENFORCEMENT

REASON FOR INVESTIGATION

The 2006-2007 Civil Grand Jury received a complaint alleging that the City of Stockton was illegally using code enforcement citings and liens as a means of coercing citizens into selling their private property to the City. The complaint alleged the City was using its code enforcement as a form of eminent domain. Also included was an allegation that the city was not providing the renovations of the Philomathean Club property based on the mutual sales agreement.

BACKGROUND

Code enforcement in the City of Stockton has been managed by several different departments and subcommittees over the last several years. In addition to actions regarding real property, the Code Enforcement Division has a variety of other functions. The City has been accused of being overly aggressive in its code enforcement efforts, in some cases targeting individual properties for take over. Complaints and violations are handled by trained volunteer officers and city employees alike. Since 2004 code enforcement has been included in the Neighborhood Services section of the Stockton Police Department.

METHOD OF FOLLOW-UP INVESTIGATION

Read and reviewed 2006-2007 Grand Jury report
Read and reviewed numerous documents presented to 2006-2007 Grand Jury
Interviewed Redevelopment Director
Reviewed recommendations from Architect
Toured Philomathean Club
Read and reviewed current City of Stockton Records Retention Policy
Interviewed Neighborhood Services Director

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY

The 2006-2007 Grand Jury made the following recommendations:

1. Educate the public on the number of parcels owned by the City of Stockton and how they are essential to the function of City services. Such notices can be included with the annual property tax notice and posted on the City of Stockton website.

2007-2008 Grand Jury Finding: The City of Stockton states that property owned by the city is a matter of public record and can be ascertained through the County Assessor's public records. Although this may be a true statement, it is quite a cumbersome and time consuming effort. The City asserts there are a number of reasons the information could not be included on the annual tax notice, however no reasons were given. The Grand Jury does agree that including these records on the website would be a huge undertaking. Adding the name of an individual contact person should help provide easier access for citizens.

2. Revise the policies and procedures related to code enforcement to provide detailed steps for the process. The City of Stockton can then use these policies and procedures on each parcel in a fair and unbiased manner, applying the same requirements to each parcel.

2007-2008 Grand Jury Finding: Although each case brought before Code Enforcement may be unique and have different combinations of violations, the Grand Jury agrees with the previous Jury in insisting that the city needs policies and procedures to insure fair and unbiased treatment of each parcel inspected. As in all things, there are always exceptions to standard rules and those could be addressed on an individual basis should cases arise after a policy has been implemented.

3. Compare the City of Stockton's policies and procedures with those from other cities within the county for a more uniform code enforcement process.

2007-2008 Grand Jury Finding: The Grand Jury would agree that all cities have different problems, issues, and priorities. However, that would not preclude the City of Stockton from using some of the information contained within other cities policies as a starting point for writing their own policies. Though it was indicated that Stockton would review policies from Lodi, Manteca and Lathrop, this Grand Jury was made aware that those cities are too small to compare to Stockton. The City of Stockton has recently hired personnel to investigate and write a policy for Code Enforcement. The City of Stockton does not have a time frame for completion of this project, but this Grand Jury looks forward to seeing the finished policy as soon as possible.

4. Provide for storage of violation records onto disk for long term storage so that they remain accessible for public scrutiny.

2007-2008 Grand Jury Finding: After interviewing the Neighborhood Services Director, the Grand Jury recognizes that the Neighborhood Services Department is using the City of Stockton's records retention policy. Records are kept for a full and complete three years before being destroyed. We believe that the retention policy is not sufficient for every department and Neighborhood Services should ask that their records be kept for a longer period of time. Retaining records for longer than three years, though burdensome, will assure the public has access to any and all transactions which might come into question.

5. Review the original contract with the Philomathean Club members and continue working together to complete any and all unresolved repair issues. The Redevelopment Department should give priority to this project because it is already more than three years behind and the completion of the club repairs will generate facility rental income for the City.

2007-2008 Grand Jury Finding: Carey & Company Architecture has completed approximately 90% of the building review and recommendations for the Philomathean Club. The remainder of this review is taking some time since the person most familiar with this project has left the company. After noting the repair issues from last year, this Grand Jury toured the Philomathean Club and found that a number of the repairs had been completed, however there are still a large number of items which need to be addressed.

6. The City of Stockton should establish an acquisition policy which utilizes criteria and timelines when considering the purchase of property with tax dollars. The purchase of the El Telcolote might have been avoided by a more thorough analysis of the City's need for the property.

2007-2008 Grand Jury Finding: The Grand Jury acknowledges receipt of the policy for property acquisition by the City of Stockton. However, the City might want to very closely monitor its needs and wants before committing to purchasing any real property.

7. Establish a policy with criteria to provide a framework before purchasing private property, even as a result of code enforcement activity, which will subsequently be removed from the City of Stockton tax rolls.

2007-2008 Grand Jury Finding: The Grand Jury accepts that the City of Stockton policy covers this recommendation.

RECOMMENDATIONS

The 2007-2008 Civil Grand Jury recommends the following:

- The City of Stockton form a task force to implement policies and procedures for code enforcement, using examples of comparable sized cities as a starting point for this project.
- 2. The City of Stockton review the policy for record retention with the emphasis on retaining all city records for longer periods of time.
- 3. The City of Stockton continue to pursue all avenues for the upkeep and restoration of the Philomathean Club.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The Stockton City Council shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

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- e. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
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FINAL REPORT - CASE NO. 01-07(C) FOLLOW-UP REPORT SAN JOAQUIN COUNTY REGISTRAR OF VOTERS

REASON FOR INVESTIGATION

California law requires that before an election all voting units undergo "logic and accuracy" testing prior to each election. As part of that process, the Registrar of Voters invited the Civil Grand Jury, as in prior years, to serve as the Validation Monitor Panel. Full election testing by the Registrar of Voters occurred over the course of thirty days. The Grand Jury's purpose was to serve as an official body to verify the ballot process for the November 2006 election using the Diebold touch screen election systems and to verify a subset of the full election testing. The specific job for the Grand Jury was to observe, verify, test and attest that the voting system is counting the voted ballots accurately.

In addition, several of the Grand Jury members served as volunteer officers at various precincts in the County during the November election. From that perspective the members noted some concerns about the efficiency of the process.

BACKGROUND

In March 2006, after extensive testing at the state level, the former California Secretary of State, Bruce McPherson, certified the Diebold machines for use in elections. Subsequent to this certification, the machines were used in the Primary Election in June and in the General Election in November 2006. It was the use of this equipment in the November 2006 election that the Grand Jury was to test and verify.

METHOD OF FOLLOW-UP INVESTIGATION

Interviewed the Interim Registrar of Voters
Participated in attesting the Primary election for 2008
Reviewed revised documents for testing procedures

Volunteer members of this Grand Jury again participated in various roles at various precincts throughout the county

Volunteer members of this Grand Jury attended training for Clerks and Inspectors

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY

The 2006-2007 Grand Jury made the following recommendations:

1. The Registrar of Voters should continue to work closely with the Grand Jury members to ensure that the attesting process prior to the election works smoothly and allows the Grand Jury to fulfill its obligation as a certifying body.

2007-2008 Grand Jury Finding: The Registrar of Voters has made significant efforts to work with the Grand Jury in ensuring the process is clear and concise.

2. The Grand Jury has no recommendations regarding the ballot delivery process. However, the County should seek ways to improve the efficiency of absentee ballot counting in order to present the official results as early as possible.

2007-2008 Grand Jury Finding: Although the Registrar of Voters agreed with the recommendation to improve efficiency of absentee ballot counting, this Grand Jury did not see any changes to the process from the previous year.

3a. The Registrar of Voters must take action to see that precincts open on time. Part of the training should be to have inspectors contact headquarters as soon as they anticipate that they will not open on time so that support can be provided. The training should also include instructions that paper ballots can be used by anyone in line who wants one as soon as the precinct fails to open on time.

2007-2008 Grand Jury Finding: The Registrar of Voters has included in their training a contact at headquarters should the precinct have trouble opening on time. Support staff is then dispatched to that precinct. Since the decertification of the Diebold machines and the use by every one of paper ballots, the second part of the recommendation becomes a moot point.

3b. The problems with the paper rolls have to be fixed prior to the next election. The Registrar of Voters should ensure that Diebold not only fixes this problem but also demonstrates convincingly that it works correctly.

2007-2008 Grand Jury Finding: This Grand Jury is aware that the Diebold machines and any changes or repairs must be done at the State and Federal level. Since the decertification of the machines this also is a moot point.

3c. The precinct worker training needs to be improved to cover those items listed in the findings. This training should include separate training for inspectors and clerks to specifically cover their exact jobs in the precinct.

2007-2008 Grand Jury Finding: Improvements in the training for precinct workers has been implemented. Additional training has been implemented for inspectors and field inspectors as well.

3d. A written handout of the instructions should be given to voters so that they can refer to it throughout the voting process. These instructions could also explain the "multiple" printing process required at the end. A possible suggestion to avoid confusion as to whether voters are to expect a printout is the change "print" to "record."

2007-2008 Grand Jury Finding: The Registrar of Voters now sends a sample ballot to every voter with instructions prior to elections. To change the wording would require Federal and State action.

RECOMMENDATIONS:

The 2007-2008 Civil Grand Jury makes the following recommendations:

- 1. If and when the Diebold machines are recertified for use in our County, the Registrar of Voters needs to make every effort to inform the State of the concerns of this Grand Jury regarding wording for printing the ballot.
- 2. Should the Diebold machines be recertified, the precinct workers need to be trained to inform anyone that they may vote by paper ballot at any time.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

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- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
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FINAL REPORT NO. 01-07(D) FOLLOW-UP REPORT COUNTY OF SAN JOAQUIN/STOCKTON METROPOLITAN AIRPORT

REASON FOR INVESTIGATION

The 2006-2007 Civil Grand Jury received a complaint alleging a violation of the Public Records Act, which requires access to records held by public agencies. This complaint was focused on the Stockton Metropolitan Airport, with the document in question being the FAR PART 150 Airport Noise Compatibility Program report which was generated in 1993. A representative of a private development company was seeking a copy of this report in relationship to a proposed subdivision the company was planning near the airport. Although the first format request for this document resulted in a copy being provided on a timely basis, it was missing three exhibits. Several months elapsed afterward until the requesting party was satisfied that a complete report had been provided.

During interviews of various witnesses, two other issues arose. The first alleged that the current Airport Director was claiming gas mileage at the same time he received a vehicle stipend from San Joaquin County. The second concerned a number of long-term leases, with durations from twenty years to ninety-nine years, which had been established under the tenure of the former Airport Manager.

BACKGROUND

The Stockton Metropolitan Airport falls under the jurisdiction of the San Joaquin County Board of Supervisors. Currently, the airport incorporates a number of commercial ventures on its property, many related to airport business. Over the years, the level of air traffic has diminished, with occasional increases in the amount of arrivals and departures with airlines providing services to the people of San Joaquin County for a period of time. In addition, the number of military flights at the airport has diminished because of the closure of nearby air bases. The flight patterns and the frequency of flight were the subjects of the requested document, the FAR PART 150. Currently Allegiant Airlines provides five weekly flights to and from Las Vegas. The plans for a service provided by AeroMexico to and from Mexico was ultimately denied by the Board of Supervisors because of the level of costs (among other factors) related to building a Federal Inspection Station which would satisfy the requirements of the Transportation Services Agency (TSA). Most flights into and out of the airport at present are private corporate jets and other private planes.

The developer who was requesting the FAR PART 150 report owns property within the buffer zone of the Stockton Metropolitan Airport and has proposed to place a subdivision on that property. The airport Director believes that based on the experience of other airports that have adjacent residential development within the buffer zone around an airport, such an endeavor opens up the jurisdiction to late lawsuits by owners of the homes within that perimeter.

METHOD OF FOLLOW-UP INVESTIGATION

Interviewed Interim Airport Director
Toured Stockton Metropolitan Airport
Read and reviewed the Airport Filing Plan
Read and reviewed County Administrative Manual

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY

The 2006-2007 Grand Jury made the following recommendations:

1. San Joaquin County should establish a formal policy on release of records under the Public Records Act.

2007-2008 Grand Jury Finding: The formal policy for the county regarding release of records under the Public Records Act is contained in Section 1307.1 of the County Administrative Manual. The county's practice is that when departments receive requests for information under the Public Records Act, they consult with the County Counsel's Office. The Airport policy is to forward any request to the Interim Director who then forwards that request to County Counsel.

2. Airport Management staff should establish a policy for complying with requests for documents and train staff in the appropriate steps to take when such a request is received. Since the County does not have a policy regarding the Public Records Act, before the release of any records, the department should consult legal counsel.

2007-2008 Grand Jury Finding: The County in fact does have a policy regarding the Public Records Act. The airport staff has been trained and understand the procedure as described above is to be used with any request for documents.

3. Public Records Act requests to the Airport should be thoroughly reviewed by management, before staff complies, to ensure all documents are complete.

2007-2008 Grand Jury Finding: The training of the Airport staff has been completed and no records leave the airport without being seen and approved by either or both the Interim Director and County Counsel.

4. San Joaquin County should establish a more comprehensive formal policy on records retention to provide better guidance to the various departments.

2007-2008 Grand Jury Finding: The records retention policy is contained in Section 2729 of the County Administrative Manual. The airport staff has received training on records retention with reference to this policy.

5. Airport Management staff should establish a records management and retention policy, following County direction.

2007-2008 Grand Jury Finding: The Interim Airport Director has established policies for records management including a comprehensive Filing Plan. All staff have been trained regarding these policies.

6. Airport Management staff should create a comprehensive filing system and train all staff on how to file and find needed material.

2007-2008 Grand Jury Finding: Airport management has updated the filing system and training has been completed for all staff. In addition to a Filing Plan, the Interim Airport Director is attempting to create a comprehensive electronic filing system which he intends to present to the Board of Supervisors in the following months. We believe this system would greatly improve filing and record keeping conditions at the airport.

7. Airport Management staff should review all files, remove old material, and then categorize all essential archived material in a location and system that allows for retrieval when necessary. Develop a list of those materials, updating it when new materials are added, and ensure that the list is available to staff who have responsibility for retrieving the files.

2007-2008 Grand Jury Finding: The Interim Airport Director has established a comprehensive Filing Plan. The basement filing has been cleaned up and the files are clearly labeled.

8. Airport Management staff should establish a policy which all future leases on airport property have the necessary review by County legal and administrative staff, as well as approval by the Board of Supervisors, so that the County does not have a detrimental financial position in such leases.

2007-2008 Grand Jury Finding: In October 2002 San Joaquin County Board of Supervisor's Ordinance No. 4169 was approved. This ordinance limits the Airport Directors approval of leases to only those of one year or less. All other agreements must be reviewed and approved by the Board of Supervisors. The Interim Airport Director has implemented Leaseman computer software which greatly helps the airport staff supervise and control existing leases.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

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- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
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FINAL REPORT - CASE NO. 01-07(E) FOLLOW-UP REPORT SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES AND SAN JOAQUIN COUNTY OFFICE OF EDUCATION (VALLEY LINCs PROGRAM)

REASON FOR INVESTIGATION

The 2006-2007 Civil Grand Jury received a complaint regarding the Valley Learning in a Caring System (LINCs) Program alleging the following:

- 1. Misuse of fund in establishing a library for use by county educators and staff
- 2. Placing the library in an inappropriate location
- 3. Failure to implement the recommended treatment for each participant's Individual Education Plan (I.E.P.)
- 4. Concerns that the physical layout of the program's facility was not conducive to the structure of the program
- 5. Problems related to the safety of the students and staff
- 6. Concerns regarding the qualifications of the contracted staff

BACKGROUND

Valley Learning in a Caring System (LINCs) is a collaboration between the San Joaquin County Office of Education and San Joaquin County Children's Mental health (part of San Joaquin County's Behavioral Health Program). This confidential program provides cducational and mental health services to adolescents in grades seven through twelve who have not been successful in their district schools because of mental health issues. The school is located on the campus of a public high school in Stockton, housed within two modular classrooms.

This program utilizes staff from San Joaquin Behavioral Health Services (the Children's Mental Health Program), the San Joaquin County Office of Education, and Victor Community Support Services, Inc. The latter agency contracts with San Joaquin County to provide a Support Counselor and a Mental Health Clinician to augment staffing for the program.

METHOD OF FOLLOW-UP INVESTIGATION

Site visit to San Joaquin Behavioral Health Services

Interview with Director, Children's Mental Health Program

Review of contracts for Victor Community Support Services, Inc.

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY

The 2006-2007 Grand Jury made the following recommendations:

 The Grand Jury recommends that the location of the library be re-evaluated to ensure that the confidentiality of the Valley LINCs program is not at risk due to the multiple users.

2007-2008 Grand Jury Finding: The San Joaquin County Office of Education reevaluated the location of the library and made several appropriate changes to maintain confidentiality at all times.

Program staff should reorganize the layout of the classroom and the library in a manner to provide for the optimum use of the facility by designating each area for one specific use.

2007-2008 Grand Jury Finding: The San Joaquin County Office of Education again re-evaluated the classroom and made many changes to better organize and prioritize usage of the room.

3. The Grand Jury recommends that program supervisors continue to monitor and ensure that the qualifications of contract clinicians meet or exceed the requirements of county employed clinicians.

2007-2008 Grand Jury Finding: San Joaquin County Mental Health has made changes to the contract to ensure that their contract clinicians meet or exceed all standards expected of county employed clinicians.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT - CASE NO. 01-07(F) FOLLOW-UP REPORT SAN JOAQUIN COUNTY EMERGENCY MEDICAL SERVICES

REASON FOR INVESTIGATION

The 2006-2007 Grand Jury decided to continue the review of ambulance and dispatch services based on a recommendation of the 2005-2006 Grand Jury. Subsequently, the members received two formal complaints alleging serious dispatch failures by American Medical Response, Inc. (AMR) which have affected the response and provision of emergency medical services to the residents of San Joaquin County. Following an extensive review and investigation of the allegation of serious dispatch failures, the 2006-2007 Grand Jury determined that there were, at the time of the investigation, few dispatch failures by AMR which were affecting the response and provision of emergency medical services to the residents of San Joaquin County. The 2007-2008 Grand Jury decided to continue the investigation of ambulance dispatch and quality of Emergency Medical Services (EMS) service to assess the current status of the service.

BACKGROUND

San Joaquin County is served by seventeen fire departments. Prior to the AMR contract, three of the fire departments provided Advanced Life Support (ALS) services and fourteen provided Basic Life Support services. All emergency ambulance service dispatching as well as fire dispatching within the county before the awarding of the contract was done by the Stockton Fire Department's Regional Dispatch Center. On May 1, 2006 services under the AMR contract began at 8 a.m.

METHOD OF FOLLOW-UP INVESTIGATION

Organizations Visited

- AMR/LifeCom Call and Dispatch Center in Salida (two visits)
- AMR Headquarters for San Joaquin Country in Stockton

- City of Stockton Fire Department Call and Dispatch Center
- City of Stockton Police Department Call and Dispatch Center
- California Highway Patrol Call and Dispatch Center
- San Joaquin County Sheriff's Call and Dispatch Center
- San Joaquin County Emergency Medical Services Office
- Continuous Quality Improvement (CQI) Dispatch Meeting

At the call and dispatch centers we visited, in addition to interviewing call takers and dispatchers, the Grand Jury observed and listened to calls and dispatching.

People Interviewed

- AMR San Joaquin County Operations General Manager
- EMS Administrator
- EMS QI/Trauma Coordinator
- Director of Communications -LifeCom EMS & Fire Dispatch
- CQI Coordinator, Lifecom EMS and Fire Dispatch
- Chief, City of Stockton Fire Department
- Deputy Chief, City of Stockton Fire Department
- Captain, Emergency Communications Director, City of Stockton Fire Department
- Dispatch Supervisor, Stockton Police Department
- Lieutenant, San Joaquin County Call and Dispatch Center
- Supervisory Communications Dispatcher, San Joaquin County (SJC) Call and Dispatch Center
- Lieutenant, California Highway Patrol (CHP), Stockton Area
- Public Safety Dispatch Supervisor, CHP, Stockton Area

Documents Reviewed

- 2006-2007 Grand Jury Report
- Responses to that report by the cities of Stockton, Lodi, and Manteca
- All documents provided to the 2006-2007 Grand Jury
- Consolidated report of the on-site review conducted at AMR SJC by the Commission on Accreditation of Ambulance Services (CAAS)
- Document granting AMR a 3-year accreditation
- EMS Agency Reports on the Exclusive Emergency Ambulance Provider Contract Compliance for AMR for January thru December 2007
- Medical Priority Dispatch System (MPDS) Implementation and Emergency Medical Dispatch (EMD) Call Processing

2006-2007 RECOMMENDATIONS

1. It is time for all agencies to set aside their differences, stop using the Unusual Occurrence process to discredit each other and to work together on improving Emergency Medical and Fire Dispatch in San Joaquin County and resolving any

problems that exist. A number of organizations are already in place to provide a forum for this cooperation, including the EMS Quality Improvement Council, the San Joaquin County Fire Chiefs Group, the San Joaquin County Radio Users Group and the 911 Primary Public Safety Access Point (PSAP) Organization. This collaborative process is crucial to the health and safety needs of the people of San Joaquin County.

2007-2008 Findings: There has been a significant reduction in the contentious atmosphere between the agencies. They have stopped using the Unusual Occurrence process to discredit each other, and are now working together on improving Emergency Medical and Fire Dispatch in San Joaquin County. To that end, the Stockton Fire Department is in the process of implementing the same Emergency Medical Dispatch (EMD) protocol card system that is used by Lifecom to minimize any misunderstandings in the dispatch transfer process. The Stockton Fire Department is to be commended for this effort. In their response, the cities noted that each agency had been participating in a lengthy mediation process and were hopeful that it would produce an arrangement concerning emergency medical dispatch that would be acceptable to the cities and county, as well as the citizens of San Joaquin. Sadly, this mediation process has failed to enable the parties to come to an agreement and has been cancelled. Subsequent to the mediation process failure, both the Cities of Lodi and Manteca have agreed to transfer emergency medical calls to Lifecom directly.

2. The EMS Agency, AMR, and Stockton Fire Department need to ensure that Phase II of the CAD-to-CAD system goes forward quickly to resolve any missing data issues.

2007-2008 Finding: Phase II of the CAD-to-CAD system has yet to be developed and implemented. The Grand Jjury also found that, based on the new working relationship between the agencies, the problem of missing data has been reduced. Recently, the Stockton Fire Department and AMR have agreed to have their contractors work together on Phase II.

3. The Grand Jury recommends that the cities of Stockton, Lodi and Manteca immediately begin to have their Emergency Medical Needs dispatched by LifeCom. However, the members recognize that there is a litigation issue concerning the control of 911 calls by local governments. When this litigation is decided, no matter the outcome, these cities should reevaluate their stance on Emergency Medical Dispatch and work together to serve the residents of San Joaquin County.

2007-2008 Finding: Significant progress has been made in the communication between the Stockton Fire Department and Lifecom. The Stockton Fire Department is now committed to making the current system of communication work as efficiently and effectively as possible. As noted above, the Stockton Fire Department is in the process of implementing the same EMDS card system that Lifecom uses so that the misunderstanding of codes during dispatch transfers has

been minimized. The Stockton Fire Department is to be commended for these efforts. In addition, the Stockton Primary PSAP (Stockton Police) has implemented Phase II of the enhanced cell phone 911 system which means that most cell phone calls originating in Stockton are now answered by Stockton Police and transferred to the Stockton Fire Department. This means that the problem with cell phone calls transferred from the CHP noted in the 2006-2007 Civil Grand Jury findings has been significantly reduced. Finally, as recommended by the 2006-2007 Civil Grand Jury, a Primary PSAP organization for San Joaquin County has been formed in order to provide a forum to resolve 911 issues. They held their first meeting in April 2008.

2007-2008 FINDINGS

- The 2007/2008 Grand Jury in its follow-up investigation has reconfirmed its
 findings that there were, at the time of investigation, few dispatch failures by
 AMR which were affecting the response and provision of emergency medical
 services to the residents of San Joaquin County. In fact, as noted by Stockton
 Fire Department in its interview with the 2007-2008 Grand Jury, there are no longer
 any significant dispatch response time problems nor problems with the quality of
 emergency medical care.
 - 2. The 2007-2008 Grand Jury found that the growing problem of delays in transferring care from ambulances to hospital emergency departments noted by the 2006-2007 Grand Jury continues. That report noted that it significantly reduced the number of ambulances available for subsequent emergency service and transport.
 - 3. AMR has been granted a 3-year accreditation for being in full compliance with All Standards and Characteristics required by the Commission on Accreditation of Ambulance Services (CAAS). CAAS evaluates over 50 standards and characteristics in 10 areas including Organization, Management, Clinical Standards, and Communication. AMR is one of only 14 Ambulance Services in California and one of only 112 in the entire country to receive this accreditation.

RECOMMENDATIONS

1. It is very disappointing that the mediation process failed to achieve an arrangement concerning emergency medical dispatch that is acceptable to the City of Stockton and the County, as well as the citizens of San Joaquin County. This is especially disheartening given the working relationship that has been established between the City of Stockton and Lifecom with Stockton noting there is no longer an issue of response time nor quality of emergency care. Given the tight budgets of both the city and county, it would appear that there could be a better solution than the expense of a lawsuit which the citizens of the county and city have to pay. The civil Grand Jury recommends that all parties give it at

- least one more effort to resolve the "Warren Act" issue of who decides how first responders are dispatched.
- 2. The City of Stockton's response to the 2006-2007 Grand Jury report said that Phase II of the CAD-to-CAD system would be developed and implemented by December 2007. As noted above, this has not happened. Even though data transfer problems have been reduced, the 2007/2008 Grand Jury continues to recommend that Phase II of the CAD-to-CAD system be developed and implemented.
- 3. The 2007-2008 Civil Grand Jury recommends that the EMS Agency have AMR quantify the delays and do a study of turnaround time at various hospitals in the County, noting the actual effect this has had on ambulance response time. For example, have they had to put more crews and ambulances in service when the delays become greater?

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors (all three recommendations). The Stockton City Council (recommendations one and two) shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follow:

As to each finding in the report a response indicating on the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

- a. The recommendation has been implemented, with a summary of the action taken
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months
- d. The recommendation will not be implemented, with an explanation therefore.



Speakers

Tom Hulburt

Detective, Stockton Police Department

Ron Baldwin

Director, San Joaquin County Office of Emergency Services

Chris Hope

Chief Probation Officer, San Joaquin County Probation

Joe Chelli

Director, Human Services Agency

Sunday Smith

Deputy Director, Human Services Agency

Dave Erb

Deputy Director, Child Protective Services

Bill Mitchell

Director, Public Health Services

Ken Cohen

Director, Health Care Services

Thomas Flinn

Director, Public Works Department

Craig Ogata

Director, San Joaquin County Parks and Recreation

Dave Beadles

Parks Administrator, San Joaquin County

Donna K. Heran

REHS, Director - San Joaquin County Environmental Health Department

Katherine Miller

Executive Director, Downtown Stockton Alliance

John Stroh

Manager, Mosquito and Vector Control

Ken Blakemore

Assistant County Assessor, Clerk, Recorder

Victor Singh

Director, County Behavioral Health Services

Scott Hudson

Ag Commissioner, Sealer of Weights and Measures



Site Tours

San Joaquin County Sheriff's Office

San Joaquin County Jail

Stockton Police Department

San Joaquin County Juvenile Probation

Duel Vocational Institution

Northern California Youth Authority

Mary Graham Children's Shelter

Port of Stockton

San Joaquin County District Attorney's Office

Lifecom/AMR

San Joaquin General Hospital

Stockton Metropolitan Airport

Sheriff's Boating Safety Patrol

Sheriff's Office - Operations

City of Stockton Municipal Utilities - Wastewater Treatment Facility