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

The Honorable Richard J. Guiliani
Presiding Judge
Superior Court of California
County of San Joaquin
222 East Weber Avenue, Room 303
Stockton, CA 95202

The Honorable George J. Abdallah
Judge Advisor to the Grand Jury
Superior Court of California
County of San Joaquin
222 East Weber Avenue, Room 303
Stockton, CA 95202

Re: 2006/07 San Joaquin County Civil Grand Jury Final Report

Dear Judge Guiliani and Judge Abdallah:

This is the 2006/07 Final Report of the San Joaquin County Civil Grand Jury. It is being presented to you, and the citizens of San Joaquin County, by the members who investigated the individual complaints, and prepared the final reports.

The nineteen members of the Grand Jury, who came from varied walks of life and backgrounds, worked diligently to meet the duties of the oath of office. We took our tasks very seriously, and worked as a team throughout the year. Among the duties we carried out this year were the following:

- Reviewed all written citizen's complaints
- Investigated those claims that fell under our jurisdiction
- Reached a majority decision regarding a course of action
- Interviewed the complainants for clarity of the information
- Interviewed witnesses who were directly or indirectly involved
- Reviewed documents, contracts, policies, procedures, and operational manuals
- Discussed the progress and issues on each case weekly
- Visited the sites in question, when required
- Wrote a final report on each case investigated, which included our findings and recommendations

Investigating any matter before the Civil Grand Jury requires time, consideration, and common sense. Due diligence is necessary to identify the issues, conduct a thorough investigation, and find practical solutions to the problem. The members of the Civil Grand Jury certainly met this challenge during the course of our duties.

On behalf of the other members, I offer sincere thanks to Judge Abdallah, Judge Advisor to the Grand Jury, for his guidance, advice when requested, and final case reviews; Bea Gin, Deputy Jury Commissioner, for her valued insight and participation in the jury selection process; David Wooten, County Counsel, for assistance with legal issues and case reviews; and Scott Fichtner, Chief Deputy District Attorney, for assistance with legal issues and case reviews.

We offer our genuine thanks to Trisa Martinez, Staff Secretary to the Grand Jury. She is to be commended for her procedural knowledge, valuable experience, and patience while assisting the members during the term of service. She arranged for our official training session, scheduled interviews, made arrangements for informational speakers, scheduled tours of mandated facilities, provided us with technical assistance when needed, and completed the various other duties as required. Thank you for a job well done!

We offer our personal thanks to Rebecca Fitzgerald, Vice-Foreperson and member of the Executive Committee, for her dedication to her responsibilities during a difficult time in her life.

We offer our special thanks to Donna Haight, Secretary, for her outstanding and exemplary service to this body. She spent countless hours in skillfully preparing reports, charts, and graphs that kept us fully informed. As a member of the Executive Committee, she demonstrated exceptional skills in organizing, editing, and preparing the final investigative drafts which then became the official files. Her high standards of performance were universally recognized and unanimously applauded by this Civil Grand Jury. As a side note, she did an excellent job last year as Secretary for the 2005/06 Civil Grand Jury. Thank you so much for everything!

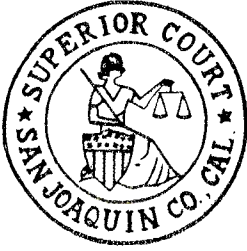
Without a doubt, this year proved to be a very interesting experience. Thank you for the opportunity to serve our community.

Cordially,

A handwritten signature in cursive script that reads "Larry Mills". The signature is written in black ink and is positioned above the printed name and title.

Larry Mills
Foreperson

2006/07 San Joaquin County Civil Grand Jury



The Superior Court

THIRD FLOOR COUNTY COURTHOUSE
STOCKTON, CALIFORNIA 95202

Hon. George J. Abdallah, Jr.

TELEPHONE
(209) 468-2827

June 7, 2007

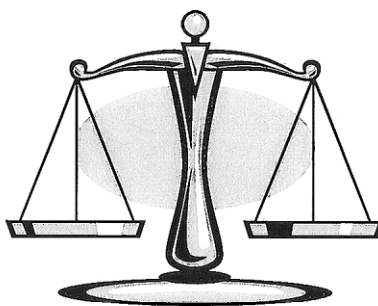
The Superior Court of California, County of San Joaquin thanks and commends the 2006-2007 Civil Grand Jurors for their conscientious efforts on behalf of all San Joaquin County citizens. Guided by the experienced and able leadership of Foreperson, Larry Mills, the diligent and hardworking efforts of the Grand Jury Secretary, Donna Haight and the extraordinary personal commitment of Vice-Foreperson Rebecca Fitzgerald 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 2006-2007 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 2006-2007 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 2006-2007 Civil Grand Jury. This committed group of citizens delved into a broad range of issues which touch the lives of citizens throughout our communities. Additionally, the Grand Jurors made unprecedented efforts to follow through and review agency responses to the work of their predecessors thereby assuring their fellow citizens that the San Joaquin County Civil Grand Jury as an institution has a continuity that strengthens its role and operations from year to year.

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 2006-2007 San Joaquin County Civil Grand Jury, for your many accomplishments the Superior Court extends its gratitude and congratulations.

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



2006-2007 SAN JOAQUIN COUNTY GRAND JURY

**Larry Mills - Foreperson
Stockton**

**Rebecca Fitzgerald - Vice-Foreperson
Stockton**

**Donna Haight - Secretary
Stockton**

John Bayley
Stockton

Brian Heath
Ripon

Joyce Van Till
Ripon

Darla Buckley
Manteca

Tom Lueck
Stockton

William R. Weathers
Stockton

Kimball Deftereos
Stockton

Arthur Mow
Stockton

Robert Wingo
Stockton

John Dunn
Lodi

Rhodesia Ransom
Tracy

Levinia Woods
Tracy

Karen Edwards
Tracy

John Thoming
Tracy



Seated : Joyce Van Till, Darla Buckley, Rhodesia Ransom, Donna Haight, Levinia Woods, Karen Edwards
Standing: John Bayley, Ray Weathers, Tom Lueck, Art Mow, Brian Heath, Larry Mills, Kim Deftereos,
Bob Wingo, Jack Dunn, John Thoming, Rebecca Fitzgerald



Grand Jury
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FUNCTIONS OF THE GRAND JURY

HISTORY - The eleventh century holds claim to formation of juries. In 1215 the jury theory had progress into a pledge expressed in the Magna Carta that no free man would be "imprisoned or [dispossessed] or exiled or in any way destroyed . . . except by the lawful judgment of his peers . . ."

In 1635, the Massachusetts Bay Colony impaneled the first grand jury to consider cases of murder, robbery and wife beating. The U.S. Constitution's Fifth Amendment and the California Constitution call for grand juries. Grand Juries were established throughout California during the early years of statehood. As constituted today, the criminal and civil grand jury is a part of the judicial branch of government, an arm of the court.

The criminal grand jury may conduct hearings to determine whether there is sufficient evidence to bring an indictment charging a person with public offense; however, the district attorney usually calls for impanelment of separate juries drawn from the petit (regular trial) jury pool to bring criminal indictments. The civil and criminal grand jury has the power to subpoena.

FUNCTIONS - The grand jury is an investigatory body created for the protection of society and the enforcement of the law. The grand jury in California is unique in that their duty includes investigation of county government as provided by statutes passed in 1880. Only a few other states require grand jury investigation beyond alleged misconduct of public officials. Although the responsibilities of a juror are many and diverse, the three predominant functions include:

CIVIL WATCHDOG RESPONSIBILITIES - This is the major function of present day grand jurors, and considerable effort is devoted to these responsibilities. The grand jury may examine all aspects of county and city government and special districts to ensure that the best interest of San Joaquin County citizens are being served. The grand jury reviews and evaluates procedures, methods and systems utilized by county government to determine whether more efficient and economical programs may be employed. The grand jury is also authorized:

- Inspect and audit books, records and financial expenditures to ensure that public funds are properly accounted for and legally spent.
- Inspect financial records of special districts in San Joaquin County.
- Inquire into the conditions of jails and detention centers.
- Inquire into charges of willful misconduct in office by public officials or employees.

Most Grand Jury "watchdog" findings are contained in reports describing problems encountered and making recommendations for solutions. In order to accomplish the county watchdog functions, committees are normally established. During its term, the Grand Jury issues final reports on the operations of government in San Joaquin County. The governing body of the public agency, whether city or county, who was the subject of the report, must respond to the Grand Jury's findings and recommendations in a timely manner.

CITIZEN COMPLAINTS - As part of the civil function, the Grand Jury receives many letters from citizens alleging mistreatment by officials, suspicious of misconduct, or governmental inefficiencies. Complaints received from citizens are acknowledged and investigated for their validity. Such complaints are kept confidential.

CRIMINAL INVESTIGATIONS - The criminal grand jury holds hearings to determine whether evidence presented by the district attorney is sufficient nature to warrant persons having to stand trial in court. A minimum of 12 jurors must vote for an indictment in any criminal proceeding. The types of cases presented to the grand jury by the district attorney usually include:

- Cases involving public officials, employees or police officers.
- Other cases the district attorney deems appropriate.

QUALIFICATIONS - Prospective grand jurors must possess the following qualifications [*Penal Code Section 893*]:

- Be at least 18 years old be a resident of California and San Joaquin County for at least one year immediately prior to selection.
- Be in possession of his or her natural faculties, of ordinary intelligence, of sound judgment and of fair character.
- Possess sufficient knowledge of the English language to communicate both orally and in writing.

A person is NOT competent to act as a grand jury if any of the following apply:

- The person is serving as a trial juror in any California court.
- The person has been discharged as a grand juror in any California court within one year of the beginning date of service, July 1.
- The person has been convicted of malfeasance in office or any felony or other high crime.
- The person is serving as an elected public official.

Desirable qualifications for a grand juror include the following:

- Be in good health.
- Be open-minded with concern for the views of others.
- Have the ability to work with others.
- Have a genuine interest in community affairs.
- Have investigative skills and an ability to write reports.

SELECTION - In the spring of each year the Presiding Judge selects persons, at random from the list of trial jurors in civil and criminal cases and will determine if they are competent to serve on the Grand Jury.

You can expect that a criminal records check will be conducted. Applications are reviewed for consideration and an interview is scheduled with the Presiding Judge if you are being considered. After the interview process, prospective applicants are requested to appear for the final selection.

At this time, with the past Grand Jury in attendance, nineteen names are drawn randomly by the courtroom clerk. Another 12 names are drawn and ranked to form the alternate list. All nineteen members are sworn in and given a description of their duties and responsibilities by the Presiding Superior Court Judge. These citizens begin their one-year term on July 1.

COMMITMENT - Persons selected for Grand Jury service must make a commitment to serve a minimum of one weekday day per week for a period of one year [July 1 through June 30]. It is not uncommon for grand jury members to work more than four hours in any given day. The grand jury traditionally does not work during the two-week, year-end holiday season and on court holidays.

REMUNERATION - Grand jurors receive a nominal payment for meetings. Parking permits are provided.

ORIENTATION - An orientation program about county and city government and other county entities will be provided to those selected for grand jury duty.

WHY BECOME A GRAND JUROR?-Those who are asked to serve on the Grand Jury should feel privileged to be selected. They enter this service with interest and curiosity in learning more about the administration and operation of the government in the county in which they live. Serving as a civil grand juror requires many hours and you must be earnest in your commitment.

REPORTS OF THE GRAND JURY

As an independent agency, the San Joaquin County Civil Grand Jury maintains its own website. Past and present reports of the Grand Jury may be found on the San Joaquin County Superior Court website:

www.stocktoncourt.org/court/grandjury

GENERAL INFORMATION

- I. **The Grand Jury Citizen Complaint Form should be prepared after all attempts to correct a situation have been explored and been unsuccessful.**
- II. Instructions for preparing the Citizen Complaint Form:
 1. **This complaint is against:**

Include the name of the individual or organization the complaint is against.
Insure correct spellings.
If the complaint is against an individual in an organization, include the individual's title or position in the organization.
Provide the street address (not a P.O. Box), city, and zip code.
The telephone number of the organization or individual cited should include the area code.
 2. **My complaint against the above-named person or agency is:**

Describe the problem in your own words.
Be as concise as possible, providing dates, times, and names of individuals involved.
Cite specific instances as opposed to broad generalizations.
Attach any available photographs, correspondence, or documentation that supports the complaint.
If more room is required, attach extra sheets, and include their number on the last line of the first sheet — for example: “three (3) additional sheets are attached.”
 3. **Complainant:**

Include your name, street address, city, zip code, telephone number and area code.
Your name will be held in strictest confidence. All grand jury documents are secret and cannot be subpoenaed in court or revealed to the public.
- Mail this complaint form to the address shown on the front.**

Please sign your complaint. You may file an anonymous complaint if you wish; but the grand jury is less likely to investigate anonymous complaints — and also less likely to get to the truth of the matter if it does.
- III. The grand jury will respond to your complaint and advise you whether or not an investigation will be undertaken. The grand jury may contact you directly during its inquiries.

SAN JOAQUIN COUNTY GRAND JURY

222 East Weber Avenue — Room 303

Stockton, California 95202

209-468-3855

CITIZEN COMPLAINT FORM

Date: _____

This complaint is against:

Name: _____

Title: _____

Agency: _____

Address: _____

Phone: _____

My complaint against the above-named person or agency is:

(Use and attach extra sheets if necessary.)

Complainant:

Name (printed): _____

Address: _____

Telephone: _____

Signature: _____

All communications to the grand jury are confidential.

HOW TO CONTACT THE GRAND JURY

Residents are encouraged to write or contact the San Joaquin County Civil Grand Jury by the following methods:

San Joaquin County Civil Grand Jury
222 East Weber Avenue, Room 303
Stockton, CA 95202

Internet site: www.stocktoncourt.org/courts/grandjury

Telephone inquiries may be made at (209) 468-3855 during normal business hours. Leave your name and address and a representative of the Grand Jury will contact you.

2006/07 SAN JOAQUIN COUNTY CIVIL GRAND JURY COMPLAINT STATISTICS

A cornerstone of the Grand Jury process is to receive and review citizen complaints which concerned persons direct to the Grand Jury members as a mechanism to expose issues within governmental agencies which affect all citizens. Because the Grand Jury is vested with certain powers to gather information, the members are able to review and investigate issues thoroughly as they represent all persons in the community. Through review of documents and interview of witnesses, the Grand Jury process holds a strong light up to agencies to determine whether there appear to be any inefficiencies, mismanagement, or even corruption. The Grand Jury relies to a great extent on those persons who have the courage and the determination to suggest issues which may need to be investigated. The citizen complaint is a valuable tool.

The 2006/07 San Joaquin County Civil Grand Jury received a total of sixty-seven (67) complaints this year, on a variety of subjects and agencies. As each complaint is received, the members review the document and any accompanying materials to determine first of all whether this body has jurisdiction over the agency cited and the issue described. If a decision is made that the issue is not within the scope of the Grand Jury, the complainant is sent a letter indicating that determination and suggesting, when possible, other avenues the writer may wish to take.

If the issue falls with the Grand Jury's jurisdiction, then the complaint is assigned to a preliminary committee first, in order to determine whether the complaint has merit. After a thorough initial investigation, the committee presents its findings to the whole body, with recommendations for action. The entire membership then votes on the matter, with continuing investigation of those approved. After the investigation is complete, a final report is generated which reveals the findings and any recommendations the Grand Jury has in the matter.

As each complaint is received, it is categorized by the members as to the nature of the issue. Based on that assessment, the following distribution resulted from this year's complaints:

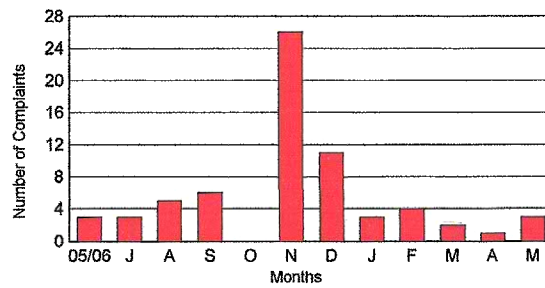
Government Malfeasance	40
Government Mismanagement	21
Law Enforcement	6
Fraud	2
Personal Dispute	1

Note: Some complaints have more than one issue and thus may be assigned to more than one category. Also, twenty-four (24) of the complaints in the "Government Malfeasance" category were submitted on the same matter.

All investigations of complaints involve a combination of investigative techniques, including interviews of the complainant and others with knowledge about the matter; review and comparison of documents; research; discussion; and summarization of the findings.

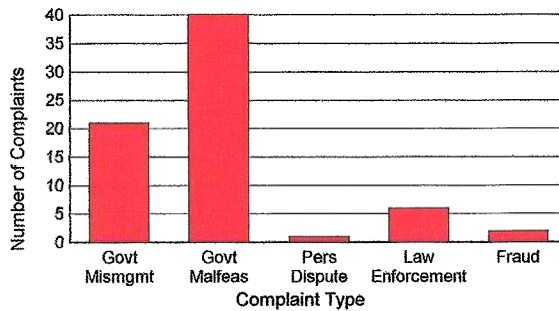
The Grand Jury also assigned a subcommittee of members to conduct follow-up to the 2005/06 Civil Grand Jury Final Report to ensure that necessary steps had been taken by the agencies, with the findings and any new recommendations included in the 2006/07 Final Report. This process is an important one to ensure that agencies complete the work begun in response to Grand Jury recommendations.

Grand Jury 2006/07 Complaint Log Monthly Totals through May 2007

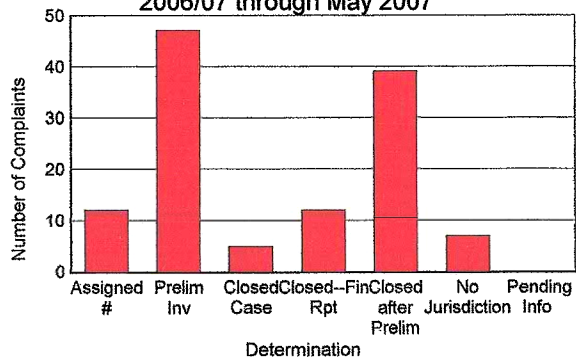


24 of 26 November complaints were the same subject

Grand Jury 2006/07 Complaint Types 2006/07 through May 2007



Complaint Determinations 2006/07 through May 2007





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**CASE #01-06(A) FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY REGISTRAR OF VOTERS**

REASON FOR INVESTIGATION:

This report is a follow-up to an investigation begun by the 2004/05 Grand Jury concerning the department's inability to use the Diebold TSX Touch Screen Voting Machines because of the lack of certification of the devices by the California Secretary of State. During the investigation, the members also identified problems related to a lack of space in the department to accommodate operations. The 2006/07 Grand Jury conducted a follow-up (case #04-05A), noting that the voting machines had been certified and were used in the 2006 elections.

BACKGROUND:

The San Joaquin County Registrar of Voters conducts all elections held in San Joaquin County, providing comprehensive voter registration services, developing ballots for all elections, training volunteer poll workers assigned to polling stations, counts all ballots, and certifies the results of all elections. Currently the Registrar of Voters functions in 10,000 square feet of office space, with additional space provided by a warehouse building at the Stockton Metropolitan Airport. The office building in which the Registrar of Voters is housed also contains the San Joaquin County Facilities Management Department.

METHOD OF FOLLOW-UP INVESTIGATION:

- The 2006/07 Civil Grand Jury reviewed the San Joaquin County Board of Supervisors response dated August 29, 2006 and filed with the Court on September 19, 2006.
- Toured the Registrar of Voters Office
- Interviewed the Registrar of Voters

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

The 2005/06 Grand Jury made the following recommendations:

1. The Registrar of Voters work with appropriate County staff to pursue options for a larger facility in the future.

2006/07 Grand Jury Finding: The response submitted in response to the recommendation noted that the County Administrator's Office was in the

process of analyzing the fiscal and physical requirements of the Registrar of Voters. The 2006/07 Civil Grand Jury toured the Registrar of Voters building on November 1, 2006. The members confirmed that the Facilities Management staff remained housed in the Registrar of Voters Office.

Upon further discussion in January with the Registrar of Voters, the Grand Jury found that the department continues to need more space. The Registrar of Voters has been offered the option to move into the new county administrative building when it is built. This would increase their space from 10,000 to 13,000 square feet. However, this additional space does not solve the problem of having an off-site warehouse. On July 18, 2006, the County Board of Supervisors directed the Registrar of Voters to bypass the County Administrator's Office and report directly to the Board regarding all the department's needs to improve the process of elections in San Joaquin County. This report addresses critical staffing and space needs of the Registrar of Voters. In April 2007, the Board of Supervisors notified the Registrar of Voters that the former process should be followed in seeking additional space--that of working with the County Administrator's Office.

RECOMMENDATIONS FROM THE 2006/07 CIVIL GRAND JURY:

The 2006/07 Civil Grand Jury has no further recommendations on current office space. We hope the county is able to build the new building in a timely manner and to accommodate the space needs of the Registrar of Voters.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.



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**CASE #01-06(B) FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S OFFICE**

REASON FOR INVESTIGATION:

This is a follow-up to the investigation begun by the 2004/05 Grand Jury (Case #13-04), which originated because of the prior Grand Jury's concern about the space available in the Courthouse for the San Joaquin County District Attorney's office. The Grand Jury found that needed space was allocated but not used because of a lack of office furniture. The prior Grand Jury made two recommendations, which were reviewed as part of the follow-up investigation by the 2005/06 Grand Jury. Additionally, the 2005/06 Grand Jury formulated three recommendations as a result of its follow-up investigation (Case #04-05B).

BACKGROUND:

San Joaquin County provides space in the Courthouse for the District Attorney's offices, with current occupancy on the second, fourth, and fifth floors. The prior Grand Jury had been concerned with the continuing construction, inadequate space, and insufficient furniture available to the staff, while at the same time, the District Attorney's office had to lease space outside the Courthouse for staff who could not be provided work space within the Courthouse. Construction had been completed on the fifth floor to allow the District Attorney's office to expand and the furniture was finally installed so that staff could occupy the space. An original plan to use the furniture from the second floor on the fifth floor was abandoned when it was determined that the furniture was old and outdated. The old furniture was moved to an airport warehouse.

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. That the Board of Supervisors disposes of all the remaining worthless/unusable furniture and equipment housed in the warehouse at the Stockton Metropolitan Airport.

2006/07 Grand Jury Finding: Tours of the District Attorney's office space on the second, fourth and fifth floors confirmed new furniture in use. A visit to the Stockton Metropolitan Airport and discussion with airport staff confirmed that disposal of the remaining furniture had been accomplished. At the time of the visit, Grand Jury members received a map with location marked on it and drove to the warehouse. The warehouse was completely empty.

2. That the remaining staff on the second floor of the District Attorney's Office receive information about the asbestos removal process in that area in order to allay fears and concerns as the County begins its asbestos abatement prior to construction.

2006/07 Grand Jury Finding: San Joaquin County's Deputy Purchasing Agent sent out "Request for Bid No. 6334 for Carpet Removal in the District Attorney's Office" on November 14, 2006. He also sent out "Request for Bid No. 6335 to Furnish and Install Carpet in the District Attorney's Office" on November 17, 2006. Those contracts have been awarded to E.T. Abatement and Harold W. Thompson respectively.

Both Requests for Bid documents clearly outline the necessary steps to protect all staff and visitors in the Courthouse. All work performed on the second floor of the Courthouse must be in compliance with all applicable regulations including the provisions of the California Division of Occupational Safety and Health (DOSH) Asbestos Construction Standard (Title 8 CCR Section 1529) and the California Department of Toxic Substances Control regulations and guidelines governing waste disposal.

All work will be performed during non-business hours, Monday through Friday during the hours of 5:00 p.m. to 4:00 a.m. Work will be all day on Saturday and Sunday. The work is divided into the Western portion of the office in Phase 1 and the Eastern portion of the office in Phase 2.

All work is to be coordinated with Thomas Bugarin, Facilities Management.

3. That a more efficient process for communication between the second and fifth floors be established. In addition, because there is currently no system of communication, such as an intercom, in place on the fifth floor, the Grand Jury recommends that a system for communication be installed. In the event of an emergency, communication within the entire department is necessary. Because of the nature of this department's business and the clients they serve, there is a potential for a dangerous situation; an intercom for communication would enhance the safety and security of the office.

2006/07 Grand Jury Finding: Initially the 2006/07 Grand Jury was informed that the District Attorney's request for \$40,000 in the budget to improve communication was denied. However, on April 3, 2007, an intercommunications system was included in the budget and would be going out for a bid walk-through on April 6, 2007. The bids will be due on April 19, and accepted on April 27, 2007. This project is designed to improve the communications between the second, fourth and fifth floors. It will also improve the computer systems on the second floor.

ADDITIONAL FINDINGS BY THE 2006/07 CIVIL GRAND JURY:

1. This is the 6th time Civil Grand Jury members have looked at the District Attorney's office since 1999. The 2006/07 Civil Grand Jury continued to visit the second, fourth and fifth floors used by a portion of the District Attorney's staff. The San Joaquin County Board of Supervisors continues to pay for off-site offices for the District Attorney's remaining staff. The condition of the fourth floor remains a concern.
2. The recent addition of work to complete a communication system in the District Attorney's office put the removal and installation of carpet in a holding pattern. However, it is our understanding the carpet bids will remain in effect and the carpeting will be installed as soon as all cabling is completed.

RECOMMENDATIONS:

The 2006/07 San Joaquin County Grand Jury has no further recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None required.



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**CASE #01-06(C) FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY PUBLIC GUARDIAN/CONSERVATOR'S OFFICE**

REASON FOR INVESTIGATION:

This report is a follow-up to the investigation conducted and the recommendations made by the 2004/05 Grand Jury (Case #07-03). The case originated from a complaint to the Grand Jury received in April, 2004, alleging that the layoff of auditors in the Public Guardian/Conservator's Office prevented completion of necessary client account audits and that the agency failed to protect the estates of conserved individuals.

The 2005/06 Grand Jury conducted a follow-up investigation to determine the amount of progress made in addressing the prior year's recommendations. As a result of that activity, an additional set of recommendations was formulated in the Final Report (Case #04-05 D). This report addresses the follow-up activities of the 2006/07 Grand Jury.

BACKGROUND:

A conservator is a person or agency appointed by the Court to act in the best interest of a conservatee. It is the responsibility of the Public Guardian/Conservator to safeguard the legal, civil, and property rights for all conserved individuals. The Public Guardian provides mandated services as defined by the California Welfare and Institutions and Probate Codes. The Courts may appoint conservators for persons who are considered gravely disabled (unable to provide food, shelter, or clothing by reason of a mental disorder) and who are unwilling or unable to voluntarily accept psychiatric treatments. The department also operates a Representative Payee program, receiving monies and benefits due to clients on a monthly basis and paying bills as appropriate.

METHODS OF FOLLOW-UP INVESTIGATION:

- The 2006/07 Civil Grand Jury reviewed the San Joaquin County Board of Supervisors response dated August 22, 2006, and filed with the Court on September 19, 2006.
- Telephone calls and in-person interviews were conducted with Conservator's Office staff.
- On-site visits were made to the California Street office and the Union Street storage facility.

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

The 2005/06 Grand Jury made the following recommendations:

1. Implement a larger training budget so that identified training needs may be met. In particular, current staff needs to be trained to produce ad hoc and other special reports from the computer system.

2006/07 Grand Jury Finding: The Grand Jury confirmed the training budget had doubled from \$3,000 to the current \$6,000.

2. Complete the process of adapting policies brought from another agency (thirty-one still remain for revision, with none completed to date). Submit a copy of the updated Policy and Procedures Manual, when complete, to the Grand Jury.

2006/07 Grand Jury Finding: The Public Guardian/Conservator has been working on the Policy and Procedures Manual. As of December 29, 2006, twenty had been completed, approved, and put in use by the San Joaquin County Public Guardian/Conservator's office. The Public Guardian/Conservator indicated that another six to ten policies would be completed this year. Originally, it was thought the Policy and Procedures Manual would contain thirty-one. Now the number is unknown as it will be necessary to complete more as this department is also linked to Mental Health and Adult Protective Services.

3. Work with appropriate County staff to ensure that key staff positions receive funding in the 2006/07 budget so that the Public Guardian/Conservator's Office can fully protect the conservatees in the program, as well as their estates. The filling of these positions will also provide resources so that staff education may be ongoing.

2006/07 Grand Jury Finding: Phone calls and office visits have confirmed the last two positions have been filled.

4. Pursue an upgrade of the CompuTrust computer system to improve its current functionality and improve the potential of its applications for department/client business. The updating of the accounts (currently on hold because of staffing issues) must be completed.

2006/07 Grand Jury Finding: The Public Guardian/Conservator has the CompuTrust consultant/trainer correcting codes that were originally entered into the memory incorrectly. The corrected codes are similar to those used in Sacramento. Staff is being trained on the CompuTrust system.

5. Complete the vehicle disposal process no later than three months following

receipt of this Grand Jury final report. Develop a policy for disposal/sale of vehicles in a timely manner on an ongoing basis. Provide a copy of the approved Policy and Procedure to the Grand Jury when complete.

2006/07 Grand Jury Finding: During a visit to both Conservator sites on January 17, 2007, it was noted that some vehicles remained on the Union Street site. We noted two vehicles that were for camping purposes. To keep homeless from entering these vehicles, staff had to 'board' the vehicles shut. The remaining vehicles were mostly large, dated, and in poor condition. A revision to Policy #3006.009.0 was completed to establish a time-line to ensure "the vehicle will not depreciate in value if not disposed of promptly, or will incur loss or expense by being kept."

6. Computerize the Inventory List of clients' personal property to allow reporting, viewing, and changes when property is added or removed from the list. The computer should trace all entries by date, indicating when property is added or removed and to whom the property was released.

2006/07 Grand Jury Finding: The Storekeeper position has been filled, with an inventory tracking system in place. The staff person in this position provided a tour and demonstration of the safeguards for the property of conservatees. The Public Guardian/Conservator's Office has also set up a criteria for which items will be collected and stored, resulting in a reduction in overall volume of storage and a simpler process to enter and track the information.

ADDITIONAL FINDINGS BY THE 2006/07 GRAND JURY:

The previous warehouse problem had caused more damage to clients' property than was known earlier. Almost everything that was stored there had water damage or mildew damage from the initial water damage. Only a few boxes that were cleaned passed the final inspection to be removed and taken to the new Union Street warehouse. Thus, at the time of our visit the warehouse was clean, maintained, individual possessions were in labeled boxes or on labeled pallets with plastic wrapping.

RECOMMENDATIONS OF THE 2006/07 GRAND JURY:

No additional recommendations are made at this time. The Grand Jury commends the Public Guardian/Conservator's Office for continuing to work diligently to improve the efficiency and effectiveness of the services it provides to its clients.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None



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**CASE #01-06(D) FOLLOW-UP REPORT:
CITY OF STOCKTON ENTERTAINMENT PERMITS**

REASON FOR INVESTIGATION:

This report is a follow-up investigation into the case begun by the 2005/06 Grand Jury (Case #05-05) regarding the cumbersome process in place for persons seeking a permit for a live entertainment event within the City of Stockton. The prior Grand Jury recommended simplification of the process to remove the barriers which appeared to be limiting the number of events within the city. The 2006/07 Civil Grand Jury conducted a follow-up of the response by the City of Stockton to the recommendations made by the 2005/06 Civil Grand Jury.

BACKGROUND:

The prior report noted that the promoter of an event was required to follow a series of steps with visits to several different city departments, with no one person or department providing concise guidance to the process. Consequently, the requirements for obtaining a permit sometimes varied from event to event.

The permit process includes thirty (30) days for a review prior to the event after the applicant has gone through the steps in the process and completed the paperwork necessary to obtain the permit.

The report also noted that the City of Stockton required insurance from individual promoters of an event, as well as proof of insurance from each vendor participating in the event. A "Blanket Event" insurance policy that covers the entire event was not accepted by the City of Stockton.

The Downtown Action Team (DAT) has an Entertainment Subcommittee in place to address entertainment issues, including the permit process. The 2005/06 Grand Jury recommended that the City of Stockton establish a user friendly entertainment permit process and a "one-stop" permit center in the hope of attracting more entertainment venues within the city.

METHODS OF FOLLOW-UP INVESTIGATION:

1. Reviewed the City of Stockton's response dated August 29, 2006
2. Reviewed drafts of the new Special Events Ordinance
3. Attended public meetings of the City of Stockton's Legislation/Environmental

Committee

4. Interviewed staff member, City Manager's Office
5. Visited Event Permit Center
6. Interviewed the Special Event Manager
7. Reviewed Event Permit Application forms
8. Reviewed the final approved Special Events Ordinance

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. Provide a "one-stop" department with knowledgeable staff to provide a single point of contact for the entertainment permit process. The staff involved in this process should have the authority to accept or deny the application, with input from other departments as needed, and have the expertise to advise the applicant of the specifics of the permit and the time frames for completing the requirements. Applicants should be advised to return to the "one-stop" department for any questions or further instructions. Any other departments involved in the permit process should report back to the "one-stop" department on a timely basis for communication with the applicant.

Finding by the 2006/07 Civil Grand Jury: The City created and approved on March 20, 2007, the Special Events Ordinance and "one-stop" permit process. The ordinance took effect April 19, 2007. This "one-stop" station has simplified and streamlined the process. All applicants' questions and concerns will be addressed at this location; therefore all event organizers and promoters will have a clear understanding of the requirements at the beginning of the application process.

2. Make the permit process user-friendly, with complete written instructions and all forms included, so that the applicant fully understands what is required and how long the process may take. The written instructions for the permit process should detail the requirements for each type of event and its related activities.

Finding by the 2006/07 Civil Grand Jury: Applicants will receive one packet with complete written instructions, including process timelines, fee schedules, and checklist. Also, process improvement will be addressed, such as online applications and applicant status notification.

3. The DAT's Entertainment Subcommittee should refocus the attention to the city as a whole rather than just to the Downtown area.

Finding by the 2006/07 Civil Grand Jury: The City of Stockton does not intend to implement this recommendation for they are in the process of forming a "Downtown Entertainment District," which will enable more venues for live entertainment. A May 3rd Forum is scheduled with eighty (80) invited "stakeholders" to provide input, recommendations, and strategies in the formation of the Hospitality Zone; the results of that forum will then be presented to the Stockton City Council in July 2007.

4. Change the insurance requirements for events, consistent with other cities which allow a blanket event insurance policy rather than mandating that individual vendors within an event provide additional policies.

Finding by the 2006/07 Civil Grand Jury: The new ordinance will accept a “blanket event” insurance policy acquired by the promoter and covering all vendors in lieu of individual insurance policies. Proof of the insurance policies must be filed with the City’s Risk Management Office at least forty-five (45) days before the event.

5. Review of the permit application should be timely by all departments involved in the process in order to allow applicants the opportunity to provide additional information, if required, and to not compromise the promoter’s event. The length of the review period should be set to reflect the type of venue taking place; a larger event often cannot meet the Entertainment Permit requirements within thirty (30) days if there is a problem.

Finding by the 2006/07 Civil Grand Jury: Event timelines have been defined. A completed permit application shall be filed with the Event Manager not less than forty-five (45) calendar days before the proposed event. The City Manager will take final action upon a completed application within twenty (20) calendar days.

6. Stockton should conduct Event Permit workshops, orientations and public evaluation sessions regularly during the year.

Finding by the 2006/07 Civil Grand Jury: The City of Stockton has held promoter forums and public meetings where concerns and suggestions were addressed. Procedure “walk-throughs” with promoters will be conducted throughout the year.

7. All City staff involved in the Event Permit process should have the same training to ensure that information given to applicants for a permit is consistent.

Finding by the 2006/07 Civil Grand Jury: Staff training sessions will be conducted throughout the year, to enable staff to guide and advise applicants consistently through the permit process.

8. Expand the DAT and Entertainment Subcommittee board membership to include local and minority promoters.

Finding by the 2006/07 Civil Grand Jury: The DAT Subcommittee is a community-based committee. Local and minority promoters will be encouraged to participate.

RECOMMENDATIONS:

The 2006/07 Civil Grand Jury has no further recommendations. The members recognize the hours of work which have been expended on this project and commend the City of Stockton for making the necessary improvements to the Entertainment Permit Process.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.



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**CASE #01-06(E) FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY BEHAVIORAL HEALTH CONREP PROGRAM**

REASON FOR INVESTIGATION:

The 2005/06 Grand Jury received a complaint alleging that the San Joaquin County Behavioral Health Services had failed to supervise adequately one of their clients in the California Forensic Conditional Release Program (CONREP). The complaint alleged that while a participant in this program, Wayne Osborg, Jr. went absent without leave (AWOL) from the residence where he had been placed, committing two brutal murders. The 2005/06 Grand Jury completed an investigation of this complaint (Case #06-05) and made a number of recommendations resulting from that investigation. The 2006/07 Grand Jury conducted a follow-up investigation to determine whether those recommendations were adopted and to assess the degree of progress made by CONREP staff. This report contains information regarding that follow-up.

BACKGROUND:

CONREP is a community outpatient mental health program, designed especially for persons with mental disorders and special conditions of treatment ordered as a result of the court or a Board of Prisons Term (BPT) action.

The purpose of CONREP is to provide comprehensive community outpatient treatment and supervision to individuals who are judicially committed and meet one or more of the following criteria:

1. Incompetent to Stand Trial (1370 PC)
2. Mentally Disordered Offenders (2962 PC or 2970 PC)
3. Not Guilty by Reason of Insanity (1026 PC or Welfare and Institutions Code 702.3)
4. Mentally Disordered Sex Offenders (Welfare and Institutions Code 6316)
5. Sexually Violent Predator (Welfare and Institutions Code 6604)

METHOD OF FOLLOW-UP INVESTIGATION:

Site Visits

- San Joaquin County Behavioral Health (CONREP)
- San Joaquin County Superior Court

- Stockton Police Department
- San Joaquin County Sheriff's Department

Materials Reviewed

- San Joaquin County Conditional Release Program (CONREP) Policy and Procedures Manual. Thirty-four new or revised policies were submitted for review.
- State of California, Department of Mental Health, Office of Forensic Services, Forensic Conditional Release Program Policy and Procedure Manuals (Volumes I and II) commonly known as State Policy Manuals.
- San Joaquin County Behavioral Health Services Policy and Procedure Manual.
- San Joaquin County Community Adult Treatment Services Policy and Procedure Manual.

Interviews Conducted

- Presiding Judge, Superior Court of San Joaquin County
- Assigned Judge, Mental Health Calendar, Superior Court Judge of San Joaquin County
- Chief Deputy District Attorney of San Joaquin County
- Deputy Director of San Joaquin County Behavioral Health
- Chief Mental Health Clinician and Forensic Director of Conditional Release Program (CONREP)
- Program Director and Court Liaison of Conditional Release Program (CONREP)

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

The 2005/06 Grand Jury made the following recommendations:

1. Based on this case as a model, Mental Health Services staff should present their evaluations of the competency of felons to the Court and stand by them when recommending that a potentially dangerous person (who in this case had already failed in the CONREP Program once before) be committed to a State Hospital such as Atascadero, before allowing an outpatient program. If in disagreement with the Court's decision, Mental Health staff should seek legal remedies such as a writ to the state's Court of Appeals.

2006/07 Grand Jury Finding: In its response to the Final Report, CONREP Program staff indicated that their focus is clinical and not legal. They rely upon the Court and the District Attorney to provide the legal expertise. The response

also noted that an appeal of a decision would require some compelling evidence that the Court had disregarded legal principles. However, CONREP staff agreed to work closely with the Court and the District Attorney's Office to ensure that the best interests of the client and the community are addressed when decisions are made regarding placement in the program.

2. A Deputy District Attorney should be assigned full-time to specifically handle Penal Code Section 1370 cases to assure they are well-versed in the issues involved with Mental Health patients with criminal histories, as well as consider the recommendations of Mental Health Services staff in Court. This coordination would further protect the community.

2006/07 Grand Jury Finding: A Deputy District Attorney has been assigned for the last two years to legal matters regarding the CONREP Program.

3. There is a determinate need for the CONREP staff to restructure procedures for client furloughs when they are residents of various facilities. This change would ensure that clients are accounted for and the CONREP staff knows their whereabouts at all times. The procedures should be expanded to include verification from the party being visited, prior to allowing a visit, and follow-up to assure the client is not breaking the contract with CONREP. The Collateral Contact, the person being visited by the client, should be thoroughly investigated to ensure that he or she is a reliable and responsible party, who will honestly report back to the CONREP staff.

2006/07 Grand Jury Finding: CONREP Program staff have developed a policy which contains procedures for client furloughs when they are residents of various facilities. This policy (#0612.6007.0 Travel or Visitation by Consumer-Client) was implemented December 1, 2006. The purpose of this policy is to allow CONREP clients to travel or to go on home visits when it is clinically appropriate and when they have exhibited compliant behaviors. These activities are privileges, which are earned by compliance with the treatment plan for each client. The policy covers a "Preventive Plan" and a "Plan of Action." CONREP staff will assist with travel arrangements, and will conduct a debriefing of the consumer on travel outcome. The policy outlines responsibilities the client has to maintain contact with the program while traveling. The policy also stipulates the CONREP staff will assess the client's collateral contact(s) based on the requirements of the State Policy Manual. (See also the finding to recommendation #5 below.)

4. Include in the Policy and Procedures that the residential facility keep comprehensive records of clients they serve. It would serve the community and Mental Health to have records that are concise and verified regarding the patient visits, doctor appointments, and substance abuse counseling. A verbal report back to Mental Health is inefficient when working with Mental Health felons, particularly when reports are made only once a month. Any issues of non-compliance need to be reported to CONREP immediately for appropriate follow-up by CONREP staff.

Incidents such as the Osborg case are rare, but with better record keeping the potential for violent criminal behavior might have been recognized earlier.

2006/07 Grand Jury Finding: A policy covering care and records from residential facilities of CONREP clients (Policy #0612.3004.0 Community Placement) was implemented December 1, 2006. The purpose of this policy is to assure adequate clinical supervision and support to maintain the forensic client in a community setting while assuring the safety of the community. The policy also covers the placement of clients in a Board and Care Facility and includes training of Board and Care staff.

5. A policy regarding the requirements of Collateral Contacts needs to be established, for both residential facilities which house CONREP clients and for persons who are the subject of visitation or other interaction regarding the client. CONREP staff should consider establishing a “contract” form, which would lay out the expectations of Collateral Contacts to provide information.

2006/07 Grand Jury Finding: In its response, CONREP program staff indicated that the state’s guidelines will be adhered to in regards to collateral contacts of clients in the program. Staff will assess the appropriateness of collateral contacts, with a written agreement developed, signed, and provided to persons who serve as collateral contacts. CONREP staff indicate that this process is part of the “core service” required by the State. However, written materials provided at the time of this report do not verify the existence of this “contract.”

6. Weekly/Bi-weekly meetings need to be transcribed and entered into the client’s file; the current process is problematic because the writing is illegible and incomplete.

2006/07 Grand Jury Finding: A Policy (#0612-2004.0 Staff Meetings) was implemented on December 1, 2006. The purpose of this policy is to establish a teamwork approach and to provide quality treatment to CONREP clients. This activity is to assure the safety of the community and the effectiveness of outpatient treatment. Meetings will be conducted with CONREP staff and Community Re-entry Program staff, and then it will be recorded in the client’s record. The weekly meetings will provide a forum to ensure that communication is complete, with a typed summary placed in the client’s file.

7. When participants in the CONREP program fail to comply with their treatment plan, CONREP program staff must take quicker action when areas of non-compliance include missed meetings, substance abuse, and missed medications, all serious signs of problem behavior. They should immediately request an Order to Show Cause hearing to discuss this change of behavior and to determine whether the patient should be kept in or removed from the program. Pending the outcome of the hearing, additional restrictions or monitoring should be applied.

2006/07 Grand Jury Finding: The policy (#0612.3007.0 Non-Compliance) was

revised as of December 1, 2006. The purpose of this policy is to provide twenty-four hours of coverage and supervision for CONREP clients and to address all issues of non-compliance quickly and thoroughly. They are expected to follow the CONREP Terms and Conditions Agreement and any Treatment Plan that has been established. Issues of non-compliance will subject the clients to possible revocation of their status in the program and possible placement in a state hospital. CONREP staff will notify the Court immediately of any serious non-compliance.

8. Mental Health staff must ensure that law enforcement has direct contact with appropriate CONREP staff if a client is detained and noted by law enforcement to be in the CONREP program. At a minimum, the client should not be released until a knowledgeable CONREP person has made an informed decision about the client and the current situation.

2006/07 Grand Jury Finding: A Policy (#0612.2003.0, Staff Coverage and Backup) was implemented on December 6, 2006. The purpose of this policy is to provide twenty-four hours of coverage and supervision for CONREP clients, as well as scheduling of CONREP staff to cover after-hours, weekends, and holidays. The policy outlines a process by which knowledgeable staff will address any concerns from local law enforcement regarding clients in the program.

9. The CONREP Director should reduce the client load to the required maximum level per staff member or increase staff to match the client load.

2006/07 Grand Jury Finding: The State mandates a ratio of one staff to ten clients. At the time of the Grand Jury review of the program in December 2006, CONREP had thirty-six clients and a staff of two and one half. In May 2007, thirty-four clients were in the program, with three full-time staff assigned to the program. However, one staff member has been out on medical leave and will remain so until July 2007. CONREP is in the process of hiring additional staff, but at present they have not been able to keep up with the Court's mandated placements in the program. The CONREP Program should be in compliance with the state's mandated ratio of one staff member to ten clients.

10. The CONREP Program Manual for Mental Health Services must be brought up to date, and include policies for "non-compliance" and "special incident reports" at a minimum. In general, the Manual contains brief policies, some of which rely on references to the CONREP Manual and therefore the presumed availability of the Manual to staff. Mental Health staff should revise their policies to incorporate important directives from the state's CONREP Manual into the local Manual, so staff does not have to seek out a second source for direction in handling CONREP clients.

2006/07 Grand Jury Finding: There are thirty-four new or revised policies in the San Joaquin County Behavioral Health Services' Conditional Release Program

(CONREP) Policy and Procedure Manual. Most policies have been updated as of December 2006. The department continues to use the State Manual as a required second source for policies and procedures.

RECOMMENDATIONS FROM THE 2006/07 GRAND JURY:

1. The 2006/07 Civil Grand Jury recommends that the CONREP staff develop the collateral contact written agreement form, as indicated in the 2006 responses to the 2005/06 recommendations.
2. The 2006/07 Civil Grand Jury recommends that CONREP Program Directors take immediate action to ensure that the number of staff meet the state requirements for the program.

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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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**CASE #01-06(F) Incident #1 FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES**

REASON FOR INVESTIGATION:

This report is a follow-up to an investigation (Case #07-05, Incident 1) and the recommendations made by the 2005/06 Grand Jury. The case was initiated based on a citizen's complaint that a large volume of mental health records had been dumped in East Stockton. Despite calls to Behavioral Health Services, the citizen was concerned because the records had not been retrieved a week later. It was later found that the confidential records had been dumped with portions of an employee's personal trash. The 2006/07 Grand Jury has conducted a follow-up investigation to determine whether Behavioral Health Services has completed actions outlined in the response to the recommendations.

BACKGROUND:

Behavioral Health Services provides both inpatient and outpatient mental health services at the main facility on California Street, as well as at satellite locations throughout the County. Among many specialized programs, is the Homeless Outreach and Engagement Response Team (HEART) program, which was the source of the dumped records found by the concerned citizen. These records contained client plans, coordination plans, and/or client agreements, with client names and other protected health information. These records are all protected under the Health Information Portability and Accountability Act (HIPAA).

METHOD OF INVESTIGATION:

The 2006/07 Civil Grand Jury investigated the matter as follows:

- Reviewed the response dated August 22, 2006, submitted by the San Joaquin County Board of Supervisors. The response indicated agreement with all findings and recommendations, indicating implementation of required actions
- Reviewed the Community Adult Treatment Services Policies and Procedures
- Reviewed the Breach of Confidentiality Policy
- Reviewed the Confidentiality: Disposal and Destruction of Protected Health Information Policy
- Made a site visit on January 24, 2007, with Behavioral Health staff confirming that all staff are being trained in HIPAA requirements.

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. Mental Health Services (MHS) should hire staff to manage and enhance protection of records.

2006/07 Grand Jury Finding: An existing employee was assigned as Interim Clinical Records Manager to be responsible for the protection of records until the permanent staff position was filled. A consultant was used to conduct an initial HIPAA gap analysis and to provide consultative records services for the three year duration of the contract.

2. MHS staff should install tighter controls of records. Records should not be taken off premises unless authorized, and their removal should be documented by the records manager.

2006/07 Grand Jury Finding: Tighter control of records has been implemented, with a specific policy, Field Documentation, which outlines the specific conditions in which off-site staff may take records into the field. Any staff member taking records must have approval for any records taken from the main office.

3. Staff members notified of an incident of breached confidentiality regarding records must take that report seriously and take immediate action to secure the breach. The incident and its circumstances must be reported to the employee's immediate supervisor, the Attendant on Duty (AOD), or the HIPAA Privacy Officer.

2006/07 Grand Jury Finding: Additional training was conducted with employees to ensure compliance with an existing policy regarding the reporting process for incidents.

4. MHS staff should train all new employees and retrain MHS employees annually in HIPAA regulations and MHS policies regarding patient records.

2006/07 Grand Jury Finding: HIPAA training is offered monthly for new employees. A new policy was developed which requires annual retraining on HIPAA requirements.

5. All staff must sign an Acknowledgement Form indicating training in HIPAA has been completed and that policies are understood.

2006/07 Grand Jury Finding: All staff sign an acknowledgement form at the end of HIPAA training.

6. All staff must review and follow the policy regarding "Unusual Occurrence (Incident) Reports."

2006/07 Grand Jury Finding: Staff review this policy every two years during document training.

7. Staff must not shred information without approval from the person in charge of record disposal and destruction.

2006/07 Grand Jury Finding: Staff may not shred information without the approval of the records manager.

8. All staff must review and follow the policy regarding logging of all calls on a Daily Crisis Log; the use of this log includes breaches of confidentiality regarding patient records.

2006/07 Grand Jury Finding: Logging of all calls has been the subject of intensified staff training. Compliance is measured by random calls by management staff directed to areas to assess staff response and follow-up.

ADDITIONAL FINDINGS BY THE 2006/07 GRAND JURY:

No additional incidents regarding confidential records has occurred since the one reported last year.

RECOMMENDATIONS:

The 2006/07 Grand Jury has no further recommendations at this time. The members commend Behavioral Health Services for their actions in ensuring that all steps have been taken to prevent a repeat of the incident which was the source of this investigation.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None required.



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**CASE #01-06(F) Incident #2 FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES**

REASON FOR INVESTIGATION:

This report is a follow-up to an investigation conducted (Case #07-05, Incident 2) and recommendations made by the 2005/06 Grand Jury which was initiated because of a citizen's complaint regarding the discovery of confidential mental health client records lying in plain view at a private recycling firm in Stockton. The 2006/07 Grand Jury conducted a follow-up investigation to determine whether Behavioral Health Services has taken adequate steps to prevent such an occurrence again and whether the agency has complied with the recommendations made by the 2005/06 Grand Jury. The records which were the subject of this complaint fall under the provisions of the Health Information Portability and Accountability Act (HIPAA).

BACKGROUND:

San Joaquin County Mental Health Services had utilized a private Stockton firm, Delta Micro Imaging, Inc., for microfilming and destruction of records for approximately forty years. This activity was established by a purchase order which has been automatically renewed each year through County Purchasing. After Delta Micro Imaging had completed preparation of the materials for recycling, they were taken to another business, Recycled Fibers of California for ultimate destruction.

METHOD OF INVESTIGATION:

- The 2006/07 Civil Grand Jury reviewed San Joaquin County Board of Supervisors response dated August 22, 2006. In that response the Supervisors indicated they agreed to all findings, and that recommendations were in the process of being implemented.
- The Grand Jury reviewed the Policies and Procedures for Breach of Confidentiality dated March 1, 2003.
- An on-site visit on January 24, 2007 to Behavioral Services confirmed they are training staff and have implemented most recommendations.
- An on site visit to County Purchasing on March 14, 2007, to confirm shredding truck had been purchased as of that date.

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. If at all possible, microfilming and shredding of records should be done in-house to insure confidentiality of all mental health records.

2006/07 Grand Jury Finding: The County purchased a shredding vehicle on March 14, 2007. Behavioral Health Services will have staff observe any shredding of confidential records.

2. Mental Health Services should have a custodian of records. This person would assure that transportation, copying, and destruction of all confidential records comply with Policy and Procedures.

2006/07 Grand Jury Finding: An existing employee was assigned as Interim Clinical Records Manager to be responsible for the protection of records until the permanent staff position was filled. A consultant was used to conduct an initial HIPAA gap analysis and to provide consultative records services for the three year duration of the contract.

3. Mental Health Services staff should observe directly the destruction of records.

2006/07 Grand Jury Finding: As indicated in the finding to recommendation #1 above, direct observation of record destruction will be required for any confidential records.

4. Mental Health Services staff should review all existing and new contracts and agreements with outside vendors to identify those which fall under the Business Associate provisions of the HIPAA regulations.

2006/07 Grand Jury Finding: With the assistance of the consultant indicated in the response above, all contracts have been reviewed and amended as necessary to comply with the requirements of the HIPAA provisions.

5. Mental Health Services staff should train all contractors and purchase order vendors in the privacy standards and hold them accountable under HIPAA regulations. With all business associates, require a written contract or purchase order with sufficient information regarding confidentiality of records.

2006/07 Grand Jury Finding: The Business Associate Agreement was amended to include all the elements required by HIPAA; County Purchasing now attaches a copy of the Business Associate Agreement to all relevant BHS purchasing contracts. An annual training for Business Associates is planned.

6. Mental Health Services staff should take appropriate action when a breach of the Business Associate contract occurs.

2006/07 Grand Jury Finding: Staff have been trained in the actions necessary when a breach of confidentiality related to records has occurred. Behavioral Health Services has not had another incident since the 2005/06 Grand Jury report.

7. Mental Health Services staff should keep a log of any reports made regarding a breach of confidential records procedures required under HIPAA.

2006/07 Grand Jury Finding: The HIPAA Privacy Officer now keeps a log of any reports of a breach of confidential records, reporting them to the HIPAA Steering Committee for review and investigation.

RECOMMENDATIONS:

The 2006/07 Civil Grand Jury has no further recommendations and commends Behavioral Health Services for their work in ensuring that records are protected appropriately.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None required.



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**CASE #01-06(F) Incident #3 FOLLOW-UP REPORT:
SAN JOAQUIN COUNTY OFFICE OF EDUCATION (SJCOE)**

REASON FOR INVESTIGATION:

This report is a follow-up to an investigation (Case #07-05, Incident 3) and the recommendations made by the 2005/06 Grand Jury. The case was initiated when a concerned citizen discovered confidential client materials near an apartment complex in North Stockton. The records (from the Human Services Agency's CAL Works Program) ultimately were found to have been disposed inappropriately by a temporary employee of the San Joaquin County Office of Education (SJCOE). The 2006/07 Grand Jury has conducted a follow-up investigation to determine whether SJCOE has completed actions outlined in the response to the recommendations.

BACKGROUND:

The San Joaquin County Office of Education (SJCOE) oversees fifteen school districts within the county providing support services for educational programs. Each district is governed by its own elected School Board. In addition to the Superintendent's office and its general oversight of the local school districts, the department provides business services and a variety of student programs and services. Cal Works is California's Welfare to Work program. The Human Services Agency (HSA) has a relationship with SJCOE as a subcontractor who assists clients, directing them toward meaningful employment and transitioning them off welfare. The records were from clients who had been referred to the Cal Works Program.

METHOD OF FOLLOW-UP INVESTIGATION:

- The 2006/07 Civil Grand Jury reviewed the San Joaquin County Office of Education's initial response dated June 7, 2006, as well as a follow-up response with more detailed information dated August 24, 2006 and received by the Court on September 6, 2006.
- Reviewed SJCOE Policies and Procedures
- Reviewed copies of forms: Records Relocation Documents and Records Retention
- Reviewed the San Joaquin County Office of Education Administrative Regulation AR 3580 (a,b,c) policy which was adopted: November 17, 1993,

and later revised/amended January 3, 2006.

- Made a site visit to the County Office of Education

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. Designate a custodian of records so that all confidential records are accounted for at all times.

2006/07 Grand Jury Finding: The County Office of Education has established three separate persons as Custodian of Records for each aspect of its operation. The Deputy Superintendent of Business Services has the responsibility for records in the area of Finance. The Coordinator of Student Program and Services is the Custodian of Records for student records. The Director of the Venture Academy (a charter school) is the Custodian of Records for that operation.

2. Ensure that all staff follows policies that were revised on January 3, 2006, regarding protection and relocation of confidential records.

2006/07 Grand Jury Finding: Before records are moved, every employee involved with that move is retrained on policies and procedures before beginning the process of relocating those records. The department has developed a log which must be completed any time confidential records are relocated, which must first be authorized by a supervisor. Once the relocation has been completed, the supervisor signs again to verify that the records were received and accounted for in accordance with the policy.

3. Train all employees, including part-time employees, on the new Policy and Procedures. Provide for annual retraining on these policies.

2006/07 Grand Jury Finding: Annually, the department now trains all staff, Administrative, Mid-Management, and clerical support, in the requirements of the records policy, including movement of confidential records. Following the training, each employee reads and signs a "Confidentiality Certification."

4. Follow through with appropriate disciplinary actions for employees who fail to comply with Policy and Procedures.

2006/07 Grand Jury Finding: The Policy and Procedures and "Confidentiality Certification" clearly states that an employee may be terminated for not complying with the provisions of the confidentiality policy. Since the time of the incident which was the subject of the initial investigation, no similar problems have occurred with confidential records.

RECOMMENDATIONS FROM THE 2006/07 GRAND JURY:

The 2006/07 Grand Jury has no further recommendations at this time and commends the County Office of Education for taking the necessary steps to prevent inappropriate release or disposal of confidential records.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None needed.



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**CASE #01-06(G) FOLLOW-UP REPORT:
SAN JOAQUIN REGIONAL TRANSIT DISTRICT**

REASON FOR INVESTIGATION:

The 2004/05 Grand Jury instituted an investigation into complaints regarding the San Joaquin Regional Transit District (SJRTD), which was carried over by the 2005/06 Grand Jury (Case #19-04). The original complaint focused on fare increases, service cuts, ordering and stocking of replacement parts for district busses, and wrongful terminations of union personnel. Questions were also raised regarding the purchase and funding of a Trolley, used by the District in Downtown Stockton. Finally, the Grand Jury investigated allegations of the misuse of District credit cards. All allegations were determined to be unfounded; however, the 2005/06 Grand Jury did find that management of the credit card program at SJRTD needed improvement. This report is a follow-up to the recommendations made by the 2005/06 Grand Jury.

BACKGROUND:

The SJRTD has the responsibility for the day-to-day operation of the regional public transit services in San Joaquin County, employing over 220 persons. SJRTD is overseen by a Board of Directors and by the General Manager/Chief Executive Officer. The District provides public transit services in the Stockton Metropolitan area, as well as intercity, interregional, and rural transit services throughout the County. Total annual ridership for the District is 4 million passengers.

METHOD OF INVESTIGATION:

- Reviewed SJRTD's response to the recommendations filed with the Court on November 22, 2006.
- Reviewed the Procurement Credit Card Program Procedures.

RECOMMENDATIONS FROM THE 2005/06 GRAND JURY:

1. In accordance with the Purchasing Credit Card Program procedure manual the Transaction Log sheet must be completed in detail for every transaction. Each transaction description should be substantiated and should accurately denote the nature of the purchase. All receipts should accompany the SJRTD Purchasing Transaction Report Log.

2006/07 Grand Jury Finding: The Program Administrator for the SJRTD has the responsibility of overseeing and monitoring all credit card usage. Log sheets must be submitted by the credit card users no later than 4 P.M. on the fifteenth (15th) of

each month, accompanied by all back-up receipts. Failure to do so will result in revocation of the employee's SJRTD credit card. Employees sign a Purchasing Card Cardholder Agreement which clearly outlines the proper use of the SJRTD credit card.

2. The Purchasing Credit Card Program procedure manual should clearly explain that personal use is not appropriate nor in accordance with the policy/procedure to ensure employee compliance. Business lunches or Board meeting expenditures should be clearly identified and documented.

2006/07 Grand Jury Finding: See the response to recommendation #1 above. In addition, the SJRTD credit cards were changed to reflect new colors and logo to minimize accidental use by an employee.

3. A supervisory review of monthly expenditures should be faithfully adhered to and an annual internal audit is recommended to further ensure the appropriateness of the credit card use.

2006/07 Grand Jury Finding: As indicated in the response to recommendation #1 above, a monthly audit is done by the Program Administrator. In addition, SJRTD financial records are audited annually by an independent auditing firm. The Federal Transit Administration auditors perform a review on a triennial basis.

RECOMMENDATIONS:

The 2006/07 Grand Jury has no further recommendations and commends the SJRTD for the revised Procurement Credit Card Program Procedures Manual and the steps taken to ensure appropriate use of credit cards by employees.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

None



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CASE # 02-06 FINAL REPORT:
CITY OF STOCKTON COMMUNITY DEVELOPMENT DEPARTMENT
BUILDING PERMIT FEES

REASON FOR INVESTIGATION:

The 2006-07 Civil Grand Jury received a citizen complaint stating that the building permit fees for the City of Stockton's Community Development Department have been and continue to be excessive. He alleged 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. When that conclusion was proven to be erroneous, the raised fee amount was allowed to stand and was approved by the Stockton City Council as a budget line item in July 2002. 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.

BACKGROUND:

The Building Division, which is part of 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. City Ordinance Section 13-304 requires that a combination permit be issued if at least two of the following trades are included in the construction: building, electrical, mechanical, and plumbing.

The 2004/05 Civil Grand Jury also looked at this 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 than \$40,000,000 in revenue for the department (see case #18-04). This surplus which was raised was then transferred into the City's General Fund, instead of being used to offset expenses in the Building Division. The prior report also found that the department failed to provide information regarding the actual cost of providing the inspection services; in particular, indirect costs were not factored into the calculation. The prior Grand Jury also found that the department had failed to complete the required analysis of expenses in order to justify the change in fees.

The 2004/05 Civil Grand Jury generated several recommendations, including an audit to determine the cost of services, readjustment of the fees to a level justified by the cost, and matching revenue against cost before transferring excess to the General Fund. The response from the City disagreed with all the findings and indicated that none of the recommendations would be implemented.

The 2006/07 Civil Grand Jury decided to continue to assess this matter, primarily because of additional information provided by the new complainant and because of a continuing sense that the City had increased building permit fees without taking the required steps to justify the increase.

METHOD OF INVESTIGATION:

Interviews:

- Complainant
- Retired City of Stockton Plan Check Supervisor
- Retired City of Stockton Deputy Director, Community Development
- Retired City of Stockton Senior Deputy Auditor
- City of Stockton Program Manager of Budget
- City of Stockton Supervising Accountant
- City of Stockton Deputy City Manager (Community Development, Human Resources, and Administrative Services)
- State of California Deputy Attorney General

Documents:

- Attorney General Opinion 92-506 AG, 76 OPS.Cal.Atty.Gen.4 (1993)
- George C. Jenkins v. City of Corona, 140 Cal.App.4th 261 (2006)
- Barratt American Inc. V. City of Rancho Cucamonga, 37 Cal. 4th 685 (2005)
- Financial documents provided by the City of Stockton including the following:
 - Assessment materials for increase or decrease of building permit fees from fiscal year 2000/01
 - Building division budget from year 2000 to the present
 - Records showing transactions for transfers from the Development Services fund to the General Fund for fiscal year 2005/06
 - Revenue reports for the years 1999 through 2001
 - City of Stockton records regarding the Community Development Department
- Community Development Fee Schedules from the following cities:
 - City of Manteca
 - City of Ripon
 - City of Tracy

- California Annotated Government Codes Sections 66014, 66016, and 66022
- Legal Opinions provided to the Stockton City Council regarding the building fees in 2003 and 2005

FINDINGS:

1. The building permit fees charged by the Community Development Department remained unchanged from 1992 to 2001. In 2001 a City analyst in the department determined that the plan check fee was not currently being included in the permit calculation. An adjustment was made by the department to include the plan check fees, which effectively more than doubled the fees. Within four months, the department staff determined that the plan check fee had already been included in the permit fees and discussed the matter with the City Manager's Office. The City Manager's Office decided to maintain the increased fee despite the discovery of the error. The increase was later approved by the City Council (in July 2002) as a budget line item.

2. California Government Code Section 66014 provides that building permit fees may be charged at a rate which coincides with the cost the municipal department incurs to process the permits. Section 66014 (a) says that "notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings...those fees may not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue." Section 66014 (b) adds "The fees charged pursuant to subdivision (a) may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations."

No evidence has been found by the Grand Jury to prove that the fees were increased based on an assessment of the costs of the service. Up to the present, the City has not provided to the Grand Jury a comprehensive analysis of the direct and indirect costs of providing the building permit service in order to justify the fee level.

3. Code Section 66016 also requires a public hearing when fees are raised. Sections 66016 (a) says "Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a

statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mail notice of the meeting on new or increased fees or service charges. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess."

In 2002, the Stockton City Council approved the City's budget for fiscal year 2002/03, with the amount of the fee increase contained as a budget line item. It is the Grand Jury's opinion that this mechanism does not satisfy full disclosure to the public and therefore does not meet the minimum requirement of a public meeting set forth in California Government Code Section 66016. The budget line item approval did not allow sufficient information to provide interested parties an explanation of the justification for the increased fees, as provided for in Code Section 66016.

4. According to Government Code Section 66022, an increase in building permit fees requires a 120-day period during which persons may file a legal action. Section 66022 (a) says "Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge, or modifying or amending an existing fee or service charge, adopted by a local agency, and defined in Section 66000, shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion." Because of the lack of information provided to the public when the fees were initially raised in 2001 and when the resolution was passed in 2002, the City of Stockton effectively precluded legal action by persons affected by this change.

5. The City maintains that the fee increase was necessary in order to cover ten years of deficit spending by the Community Development Department, which was covered by monies from the City's General Fund. No precedent in law allows for an increase in building permit fees to repay monies transferred from a General Fund to cover deficit spending in a department.

6. Legal opinions provided to the Stockton City Council in 2003 and 2005 found that the increase in fees was in compliance with all laws. The 2003 opinion by an interim City Attorney was reviewed by the City Council during a presentation regarding the Stockton Events Center. That opinion stated that the increase in fees was based on the cost of providing the services of the Development Department and that the transfer of the funds from the Development Services Fund to the Infrastructure Reinvestment Fund was appropriate. The 2005 opinion by the same attorney, who

was then functioning as Special Counsel to the City of Stockton, reaffirms the first opinion and states that the “current building permit fees are actually below the full cost to the City of the building permit program.” The Grand Jury has not been presented sufficient information from the City to verify that the cost of providing the building permit services is equal to the amount of the fees.

7. The City of Stockton does not audit this department on a regularly-scheduled basis. The Grand Jury was provided a copy of a “draft” internal audit report of the Community Development Department regarding fees, which was written in 2002. This audit was “conducted in response to a request from the City Manager’s Office to address service fees charged for building permits.” The audit report states, “...in the process a clerical error occurred. In July 2001, the Community Development Department implemented what was perceived to be a correction to the Combination Permit fee schedule, and increased the rates to match the schedule approved by the Council. However, the Community Development Department did not take into account the processing adjustments related to the plan check fee made in 1987. The department continued the practice of calculating a separate Plan Check fee and adding it to the permit fee charged. This caused a double assessment of the Plan Check Fee. Because the Council had not authorized a fee increase, the department’s adjustment resulted in a significantly higher Combination Building Permit fee. Between July 1, 2001 and April 5, 2002, the Community Development Department issued 1,805 Combination Permits, and building permit and plan check revenues were 67 percent above budgeted figures.” However, when the final audit by the City Auditor was submitted to the Stockton City Council on January 3, 2003, a different finding appeared. This audit states, “Based on the results of our work, we conclude that the City is charging fees in compliance with the annual citywide fee schedule approved by the Council.” There appears to be a major discrepancy between the “draft” and the “final” audit, which raises a question about the validity of the final audit.

8. Finally, in 2007 the City has hired a firm, Muni Financial, to conduct a cost study of the Community Department’s direct and indirect expenses in order to determine the allowable expenses against which to measure the permit fee level.

RECOMMENDATIONS:

The 2006/07 Civil Grand Jury makes the following recommendations:

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

3. The Community Development Department should be audited on a mandatory basis every two (2) years. Based on the findings of the audit, the department should adjust fees according to the law.

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.

5. The City of Stockton should provide a copy of the final Muni Financial study to the 2007/08 Civil Grand Jury as soon as it is available.

Additional Grand Jury Observation:

Although the Grand Jury understands that the time limit sanctions in Section 66022 are not in the purview of the City of Stockton, we feel that in the spirit of open and honest government, the City should make all fees and charges publicly available to all homeowners so that they may question the costs of fees charged in the purchase of their homes.

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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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CASE #04-06 FINAL REPORT:
CITY OF STOCKTON CODE ENFORCEMENT

REASON FOR INVESTIGATION:

The 2006/07 Civil Grand Jury received a complaint on July 6, 2006, alleging the City of Stockton was illegally using code enforcement citations 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. Specific properties listed in the complaint were the El Dorado Bowl and the YMCA, as well as downtown hotels. There were also concerns about the amount of real estate owned by the City and the possible misuse of taxpayer monies to purchase property. In the case of at least one property, there was a claim that the City purchased a property with existing code violations and subsequently leased the property back to the previous owner. Several newspaper articles supporting the sentiment of the citizen regarding code enforcement were also included with the complaint. Although not directly related to code enforcement, the complainant included a copy of a statement made before the Stockton City Council by Beverly Fitch McCarthy, former president of the Philomathean Club. The statement addressed the club's concerns about the future of the property and the failure of the City to provide renovations of the property based on the mutual sales agreement, which granted the club members a lifetime use of the property despite ownership by the City of Stockton. The Grand Jury included this issue within the investigation despite the absence of specific code enforcement issues.

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 including graffiti abatement, complaints of nuisance, abandoned vehicles, health and safety concerns, and others. Teams associated, or formerly associated with code enforcement, include Redevelopment, Channel Action Team (CHAT), Volunteers Out Identifying Code Enforcement (VOICE) and Aggressive Code Enforcement (ACE). 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.

The 2000/01 and the 2001/02 Civil Grand Juries investigated complaints which alleged the City of Stockton was not handling code enforcement uniformly in hotels and other public housing units. Concerns were raised regarding health and building code violations, as well as an infestation of bats in one hotel. A recommendation from the 2001/02 Grand Jury Final Report stated that "the City of Stockton and San Joaquin County Board of

Supervisors [should] provide adequate staff to inspect thoroughly and enforce [codes in] the hotels on a regular basis.”

Since that time, much has been done to clean up the downtown area and conditions are much improved. However, in the process the City has been accused of being overly aggressive in its code enforcement efforts, in some cases targeting individual properties for take over. Those properties mentioned in the complaint were the Land Hotel (30 North California Street), El Telcolote, a ten-unit apartment building (33 South San Joaquin Street), and a commercial property (500 East Main Street).

The Philomathean Club was acquired by the City of Stockton not through code enforcement activities but through a purchase agreement which resulted from negotiations between the club members and the City.

METHODS OF INVESTIGATION:

- Reviewed the entire list of parcels currently owned by the City of Stockton
- Reviewed the policies and procedures for code enforcement
- Reviewed Code Enforcement Division memos, flowcharts, and the City of Stockton’s Administrative Directives for the handling code enforcement files
- Interviewed code enforcement staff in the Stockton Police Department, CHAT, and the City of Stockton Redevelopment Department.
- Received and reviewed other relevant information while investigating unrelated cases
- Reviewed code enforcement policies and procedures from the cities of Lathrop, Lodi, and Manteca
- Requested code enforcement policies for the City of Tracy
- Reviewed code enforcement files for properties that were allegedly targeted
- Interviewed members of the Philomathean Club
- Requested and reviewed copies of the code enforcement files for the El Dorado Bowl, the YMCA Building, and the Philomathean Club
- Requested and reviewed copies of code enforcement files for 500 East Main Street and 30 North California Street
- Reviewed maps for areas recently or currently under the Redevelopment Department’s auspices
- Reviewed the original purchase contract between the Philomathean Club and the City of Stockton.

FINDINGS:

Regarding Property Owned by the City of Stockton:

1. The City of Stockton owns more than 600 parcels city-wide; however, most of the parcels are parks, parking facilities and city service access properties essential to daily services. The Grand Jury was unable to determine precisely how many were obtained as a result of code enforcement activities.

2. Although the El Telcolote had been subject to code enforcement activities, the City of Stockton did not obtain it as a result of code enforcement or a process of eminent domain. The purchase of the El Telcolote property was completed through a traditional “arm’s length” purchase process with City staff thinking that increased storage space was needed for the Bob Hope/Fox Theater. That plan has since been vacated and the property is being sold.

3. None of the properties researched were leased back to their previous owners.

Regarding Code Enforcement Policies:

1. No detailed procedures for code enforcement were found. A Neighborhood Services Section policy and procedure manual was started in 1999/2000, but was never completed. Therefore, staff addresses each property on its individual merits or problems.

2. City employees interviewed maintain that neither the City of Stockton nor the Redevelopment Department purchases property as part of code enforcement actions. However, the City or the Redevelopment Department may offer to purchase the property following code enforcement actions even if violations still exist. These properties generally fit into the City’s master plan, such as future parking. Properties which have health or safety violations that go unresolved past the allotted time period are issued orders to vacate and may be referred for demolition if the problems persist.

3. Under the preceding City Manager, the City of Stockton’s Administrative Directives were used as a source of policy and procedure for code enforcement. These Administrative Directives are compilations of memorandums on various subject matters related to code enforcement, such as graffiti abatement, abandoned vehicles, abandoned shopping carts, etc. They do not provide step-by-step detail to guide code enforcement activities.

4. All versions of policy or procedure contained no process for final resolution in the event of cases which have gone unresolved past the allowed time period and may require abatement or referral to the Aggressive Code Enforcement team. This team handles the cases which have continuous, severe, or repeated code enforcement violations. The City Attorney’s Office participates with the Aggressive Code Enforcement team.

5. The cities of Lathrop, Lodi, and Manteca have detailed policies related to code enforcement, with Lathrop having a comprehensive set of policies and procedures to guide code enforcement.

6. The City of Tracy produced no code enforcement policies and procedures for Grand Jury review.

Regarding Individual Properties Referenced:

1. According to the files available, the property at 30 North California Street was a tenant-occupied building in grave disrepair with many unsafe and/or unsanitary conditions. As a

result of the poor living conditions, tenants of the building were temporarily relocated. In the course of nearly two years, the City made approximately thirty (30) visits and requested that the owner correct the violations. Although several of the inspections and/or violation notices served on the owner by the City of Stockton were subject to fines for violations or fees for inspection activities, many of them were marked “no fees.”

In the case of 500 East Main Street, this commercial building was in violation for being vacant for more than 180 days and deemed a dangerous building due to loose masonry on the facade, as well as other general deteriorations. Although this building was not occupied at the time of the citations, the City of Stockton levied a \$50 per diem fine against the owner of the building. The fine was later increased to \$250 per day. According to testimony and code enforcement documents containing timelines of activity, the owner was not allowed to make necessary repairs to the building because of the City of Stockton’s delay in issuing requested permits needed to begin the work as required by Stockton Municipal Code sections 13-301, 13-302, and 13-303. That property was ultimately purchased and renovated by new owners.

There was a substantial divergence between the handling of the property at 500 East Main Street when compared to the property at 30 North California Street, with both sets of records available for the time period of April 2001 to April 2005.

2. The City of Stockton does not keep code violation records past three years if there are no further violations. Therefore, in regards to the El Dorado Bowl and the YMCA Building, it was impossible to determine what specific code enforcement activities occurred and in what sequence and severity they occurred without the supporting documents.

Regarding the Philomathean Club:

1. In reviewing the contract between club members and the City of Stockton, the contract items in need of repair included, but were not limited to installing new accessibility compliant ramp and handrails for the back parking lot entrance, updating both the men’s and women’s restrooms to meet handicap standards, painting on the interior and exterior, installing new carpet, repairing dry rot, paving and striping the parking lot, and constructing a new fireplace chimney according to current codes.

2. The City of Stockton and the Philomathean Club were to close escrow on or before October 31, 2000. Under “Responsibility for Maintenance and Supervision,” Section 22 of the purchase agreement, the BUYER (the City of Stockton) was to complete all repairs within thirty (30) months of the close of escrow.

3. The tour of the Philomathean Club revealed that although some items slated for repair in the purchase and sales agreement were complete, much remains to be done. Some of the major items completed include painting of the building interior, replacing some window coverings, replacing the carpet, completing updates in one of the restrooms, striping the parking lot, repairing dry rot around the windows, and repairing the handrail on the outside entrance.

4. Items still in need of repair or replacement include the following:

- Bathrooms do not appear to be ADA compliant; in fact, one restroom is now used as storage by the City's janitorial staff and is cluttered with tables and cleaning supplies. The chimney is still in need of repair
- The carpet, although replaced, has not been tacked down near the doorway in one area and has begun to split at the seam in another area, posing a trip hazard
- The back porch entrance has been strengthened, but it is esthetically displeasing and the wood used for the handrail is splintered
- Portions of the upper stairway remain taped off due to hazards; loose railings were also present

5. The City's Redevelopment Department has been in contact with the members of the Philomathean Club regarding completion of the repairs, and the department is in the process of working with an architect to update the timeline for completion of repairs that were promised in 2003.

General Comments:

The Grand Jury believes that the reputation of the City of Stockton and the habitability of downtown hotels have much improved as a result of the downtown clean up efforts of code enforcement. In addition, very positive information regarding the City of Stockton Redevelopment plans and efforts can be found in the "Downtowner," a small informational newspaper published by the Redevelopment Department. The paper even offers information on the "Grant Process" for property in need of repair.

RECOMMENDATIONS:

The 2006/07 San Joaquin County Civil Grand Jury makes 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.
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.
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.
4. Provide for storage of violation records onto disk for long term storage so that they remain accessible for public scrutiny.

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.

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.

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.

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 (6) 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

CASE # 06-06 FINAL REPORT:
NEW HOPE ELEMENTARY SCHOOL AND THE
SAN JOAQUIN COUNTY HOUSING AUTHORITY

REASON FOR INVESTIGATIONS:

The 2006/07 Grand jury received a complaint alleging discrimination, harassment and civil rights violations against the complainant and her bi-racial children. The complaint alleges that the San Joaquin County Sheriff's Department and the New Hope Elementary School staff failed to take adequate action regarding the incidents affecting the complainant's child.

In addition, the complainant alleged discriminatory action by the San Joaquin County Housing Authority in evicting the complainant from her home in Thornton. Finally, the complaint alleged that the United States Postal Service (USPS) in Thornton failed to deliver and/or withheld mail from the complainant.

BACKGROUND:

The complainant moved into the community of Thornton in December of 2000. Shortly after the family's relocation, the family members experienced an incident in which an unknown adult male directed racial remarks to them while they were outside a local market. Other random events occurred. There were two incidents in December of 2000, one in January of 2001, one in February of 2002, one in November of 2004 (USPS-related), with the majority of the incidents occurring after October 2005, up to and including June 28, 2006. Among the incidents noted in the complaint were graffiti with racial slurs, verbal altercations between the complainant's children and other children in the school and the community. The complainant also reported that the Thornton Post Office lost, misdirected or withheld correspondence. The complainant alleged that all of the incidents fell into the categories of discrimination and/or harassment. The complainant and her family relocated to another city on July 7, 2006. After the move, the complainant and family experienced no further incidents in their new city nor in the children's schools.

METHOD OF INVESTIGATION:

- Interview of Deputy, San Joaquin County Sheriff's Department
- Review of Sheriff's Department reports and court documents related to some of the incidents referred to in the initial complaint
- Interview of the Principal of the New Hope Elementary School
- Review of school records for the children from New Hope Elementary School and Williams Middle School
- Review of records from the San Joaquin County Housing Authority

- Interview of the complainant
- Review of Investigative report by the United States Department of Housing and Urban Development based on the complaint of discrimination and harassment, including eviction of the complainant from the Thornton Housing Complex.

FINDINGS:

1. After reviewing the San Joaquin County Sheriff's Department report, it was determined that the complaint regarding the Officer's response to and investigation of racial graffiti had no merit. The deputy who responded interviewed all parties involved and cited numerous individuals for various penal code violations including but not limited to Penal Code 594(a) – Vandalism and Penal Code 422.6(b) – Violations of Civil Rights.

2. Review of the complainant's case file, while she was a resident of the Thornton Housing complex, showed adequate cause for the Housing Authority's legal actions and ultimate eviction of the complainant. The complainant violated the lease agreement on more than one occasion. Proper documentation exists to substantiate those violations. The complainant received timely notifications regarding the violations.

3. Review of an investigative report by the United States Department of Housing and Urban Development, which was initiated because of a complaint filed by the same complainant who contacted the Grand Jury, substantiated that no discrimination, racial bias, or harassment occurred in any of the actions taken by the San Joaquin County Housing Authority against the complainant.

4. In regards to the harassment and disciplinary incidents, such incidents are not placed in the victim's records and not all incidents are entered in the records of the student(s) responsible. There is no current school-wide policy and procedure in place. The process utilized by the school is that each individual teacher implements his/her own classroom rules, and problems which occur between students are resolved on an individual basis.

5. The United States Postal Service and its offices are not within the jurisdiction of the San Joaquin County Grand Jury.

RECOMMENDATIONS BY THE 2006/07 GRAND JURY:

1. The Grand Jury recommends that the New Hope School consider developing a policy with criteria for placing documentation in the files of all involved students after initial or repeated incidents of harassment or other disciplinary matters.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The Board of Trustees of the New Hope Elementary School 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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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**CASE # 07-06 FINAL REPORT:
COUNTY OF SAN JOAQUIN/STOCKTON METROPOLITAN AIRPORT**

REASON FOR INVESTIGATION:

The 2006/07 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 formal 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 flights 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 later lawsuits by owners of the homes within that perimeter.

METHOD OF INVESTIGATION:

- Reviewed the original complaint and accompanying material
- Reviewed information from other County Departments, including Human Resources
- and the Board of Supervisors
- Interviewed the current Airport Director
- Interviewed the former Airport Manager
- Interviewed Stockton Metropolitan Airport staff
- Reviewed maps related to the Stockton Metropolitan Airport and development surrounding it
- Reviewed material related to Airport leases, prepaid leases, and related information on day-to-day operation of the airport
- Toured the Stockton Metropolitan Airport on April 11, 2007, including the areas where file cabinets are maintained, both in the main office and in the basement of the Airport Terminal

FINDINGS:

1. Following is a timeline of the activities related to the request for information from the developer to the Stockton Metropolitan Airport (SMA):

- March 5, 2006: An informal request was made of an SMA employee from the former SMA Manager to receive a copy of the FAR PART 150 report.
- March 8, 2006: SMA employee finds an unbound copy of the report and informs Airport Director of the request. Airport Director decides to review report before releasing it and then requests staff to archive the document
- March 10, 2006: Attorney for developer sends a Public Records Act request for the report.

- March 15, 2006: SMA employee directed to take report to copy service but notices that three exhibits are missing from the report, which he reports to his supervisor. The document is left at the copy service.
- March 15, 2006: Airport Director prepares a letter indicating documents will be provided by March 24, 2006.
- March 16, 2006: The report and copy are picked up from copy service.
- March 17, 2006: SMA employee finds two copies of the report, which are both bound and complete, and include the three exhibits
- March 20, 2006: Report copy picked up by developer representative and found to be incomplete (missing the three exhibit pages)
- March 21, 2006: A letter is sent from the developer requesting three missing exhibits
- March 28, 2006: Developer representative picks up reduced copies of the three exhibits provided in response to the second request (the copies are made from poster-size exhibits)
- March 30, 2006: Third Public Records Act request is sent to SMA requesting copies of the original missing maps
- April 5, 2006: An SMA employee takes photographs of the two noise reports in the filing cabinet but does not inform employees searching for the documents
- April 7, 2006: Developer is notified that despite a thorough search, the original missing exhibits have not been located.
- April 11, 2006: Developer representative again sends letter requesting copies of original documents
- April 13, 2006: Letter is sent to developer indicating the documents still not located.
- At a later date in October 2006, two original reports, which are both bound and complete, and include the three exhibits, were located and the requested copies were sent to the developer.

This report should have been released as requested by the developer. The decision to “archive” the file at the time of the informal request, although based on a perception that the report was outdated and thus irrelevant to the purposes of the developer, was misguided and led to the perception that the Airport Director was out of compliance with the Public Records Act. In addition, the developer appeared to be making unreasonable requests for the exhibits following the initial provision of the copies made from the posters.

2. The San Joaquin County Board of Supervisors adopted Resolution 90-1065 in August 1990 to establish record retention guidelines for specific County Departments, with general directions to all other departments. The resolution does not have enough specific information regarding records retention to be a sufficiently helpful guide to the County departments.

3. The California Secretary of State’s Office has a guide called the “Local Government Records Management Guidelines” (2004) which includes detailed

information and recommended retention schedules for most departments and a variety of records.

4. San Joaquin County has no formal policy regarding the release of materials under the Public Records Act. Department managers are instructed to contact County Counsel with any questions regarding release of information under the Public Records Act.

5. The Stockton Metropolitan Airport has no comprehensive policies on records retention or the release of information/records.

6. The complaint regarding the Airport Director's unauthorized reimbursement for travel expenses proved false. The Airport Director had been receiving \$400 a month for inter-County travel expense/mileage. Reimbursement claims for mileage outside of the County were authorized by County policy. San Joaquin County has precise policies on travel and allowable reimbursement for travel expenses. All mileage claims were based on the approved criteria.

7. The issue regarding the new Federal Inspection Station disappeared when the current members of the Board of Supervisors voted against the expansion because of the level of costs, among other concerns.

8. A former Airport Manager arranged thirteen long-term leases during his tenure, some for as long as ninety-nine years, for a number of properties and buildings at the airport. Many appeared to be without the approval of the Board of Supervisors. The process of setting up those leases, which allowed a one-time payment in order to raise revenue for airport operations at that point in time, was shortsighted based on the current value of those properties and especially because it precluded any ability to modify the leases.

RECOMMENDATIONS OF THE 2006/07 GRAND JURY:

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

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.

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

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

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

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

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.

8. Airport Management staff should establish a policy by 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.

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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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**CASE #08-06 FINAL 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 INVESTIGATION:

- Met with the Registrar of Voters and the Assistant Registrar of Voters
- Served as an official body to test and verify the ballot process for the November 2006 election
- Served as observers during the counting process on election night at the Registrar of Voters
- Served as election officials in precinct voting stations

FINDINGS:

1. The Grand Jury witnessed the subset test of the ballot process and attested that the test was accurate. In a follow-up meeting, the Registrar of Voters, the Assistant Registrar of Voters, and the Grand Jury discussed and agreed to additional improvements to assist the

process in the next year.

2. The Grand Jury members observing the counting of the ballots on election night found it to be efficient. Setting up the ability for Precinct Inspectors to deliver their sealed bags with the electronic cards and backup paper rolls without having to get out of their cars proved to be an efficient and organized way to receive the ballots for counting. However, in the end, San Joaquin County reported its official vote count near the deadline for reporting to the Secretary of State. Given the high number of absentee voters, as well as the plethora of different ballot formats, overall counting has been a slow process.

3. Although overall the election went well, the Grand Jury members who were election officials noted some significant problems during the election, including the following:

3a. Some precincts opened late, with at least one opening more than thirty minutes late.

3b. The paper rolls added to the machine were a significant problem. There were cases when a roll was put in incorrectly or the casing wasn't properly locked and times when the paper became entangled beneath the casing. Any problems or perception of a problem with voting machines is a significant blow to voter confidence.

3c. Although the precinct worker training covered in depth how to set up and take down the equipment, it did not cover in sufficient detail how to assist voters, how to maintain crowd control, how to mark the listings of registered voters, and other functions necessary for a smoothly running election.

3d. The actual touch screen voting was confusing to a significant number of voters. The instructions appear on the first screen the voter sees and then they are gone. Another confusion for voters was the fact that at the end of the process, they had to press print many times before they could complete the ballot. Many voters were also looking for "their printout."

RECOMMENDATIONS FROM THE 2006/07 GRAND JURY:

The Grand Jury makes 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.

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.

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.

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.

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.

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 to change “print” to “record.”

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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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CASE # 09-06 FINAL REPORT:
SAN JOAQUIN BEHAVIORAL HEALTH SERVICES
AND COUNTY OFFICE OF EDUCATION
(LINC's PROGRAM)

REASON FOR INVESTIGATIONS:

The 2006/07 Grand Jury received a complaint regarding the Valley Learning in a Caring System (LINC's) Program alleging the following:

1. Misuse of funds 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 (LINC's) 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 educational 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 INVESTIGATION:

- The investigation began with an unannounced visit by committee members to the Valley LINC's facility. The visit consisted of a tour of both modular buildings, an

informal discussion with the teacher providing the tour, and observation of the students in both a classroom and non-classroom setting.

- A second tour was conducted with prior notice to the staff and supervisors of both Behavioral Health and the County Office of Education, with supervisors from both programs in attendance.
- Policy and Procedure documents were obtained and reviewed.
- Formal interviews with former and current program staff were conducted.
- Documents related to the current students in the program, including the I.E.P. and the mental health clinical records, were reviewed by the committee.
- A third and final visit to the facility was conducted.
- Review of job descriptions of Behavioral Health employees who customarily worked in the LINC's Program.
- Review of the Community Service Agreement between San Joaquin County Mental Health Services and Victor Community Support Services, Inc. for 2006/07.

FINDINGS:

1. In reference to the misuse of funds and the location of the library, the Grand Jury found that the funds used for the library were grant funds designated specifically for the use of the library and were spent accordingly.
2. The Grand Jury found that the location of the library may be inappropriate, taking into consideration that the library books are available to be used by County education staff. Furthermore the Office of Education uses the Library as a vocational training opportunity for students and has a courier pick up and deliver book orders twice a week. The books are delivered to eleven (11) school districts and fifty-seven (57) classes. The location of the library is within the modular buildings of the confidential program. Use of the library by staff not directly associated with the program could lead to a breach in the confidentiality associated with the program.
3. Review of the records of the current students determined that the treatment plans are being followed, services are being provided, and in some cases are being provided above the recommendations listed in the I.E.P.
4. During the initial visit, it was determined that the layout, although posing no safety issues, lacked order. Improvements were noted on subsequent visits. Although the physical structure was comparable to the rest of the campus where some modular buildings are used, enhancements can be made to the classroom floor plan to improve the organization, making it similar to a traditional classroom.

5. The safety issue was focused on boxes of books that were allegedly stacked throughout the facility. Upon our initial visit, all books were found to be stored on appropriate shelving.

6. The contract between Children's Mental Health Services and the Victor Community Support Services, Inc., outlines the duties and responsibilities of positions of Support Counselor and Mental Health Clinician. The contract does not detail the minimum qualifications, education, experience, license, or special knowledge or abilities required of these contracted persons who work in place of regular County staff.

7. Although it was confirmed that contract staff is being utilized presently rather than the Children's Mental Health staff who provided services to the program originally, no decline in services was noted. The use of contract staff is cost-effective because the number of staff may be easily reduced or increased based on the number of students enrolled in the program.

RECOMMENDATIONS FROM THE 2006/07 GRAND JURY:

The Grand Jury makes the following recommendations:

1. The Grand Jury recommends that the location of the library be re-evaluated to ensure that the confidentiality of the Valley LINC's program is not at risk due to the multiple users.
2. 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.
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.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Office of Education (Recommendations # 1 and 3) and the San Joaquin County Board of Supervisors (Recommendations 1, 3, and 5) 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:

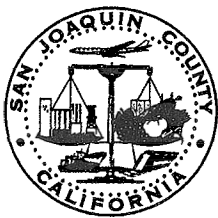
As to each finding in the report a response indicating one of the following:

- 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.
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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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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CASE # 10-06 FINAL REPORT:
SAN JOAQUIN COUNTY EMERGENCY MEDICAL SERVICES

REASON FOR INVESTIGATION:

The 2005/06 Grand Jury investigated a complaint concerning the Request for Proposal (RFP) process used in the awarding of the ambulance and dispatch contract by the San Joaquin County Board of Supervisors (BOS). This procurement process included the provision of all emergency ambulance responses within the County, as well as the operation of the ambulance provider's dispatch center, which was to be an approved Emergency Medical Dispatch (EMD) center and 911 secondary answering point. The investigation of the 2005/06 Grand Jury was focused upon the RFP process as it pertains to policy and procedures only and not upon the feasibility/viability of the services that may be delivered. The 2005/06 Grand Jury recommended that the BOS should provide an analysis of the ambulance service at six and twelve month intervals to the succeeding Grand Jury in order to assess the impact of this change on the health and safety of County residents.

The 2006/07 Grand Jury decided to continue the review of ambulance and dispatch services based on that recommendation. 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. One of the complaints submitted to the current Grand Jury was mostly a personal attack on the Emergency Medical Services Agency (EMS) and its Director. The management of the contract was called grossly negligent, covering up careless and dangerous practices of AMR. It also claimed that the transfer to a "lesser facility" was illegal, proven faulty and lethal. It noted that many of the problems have gone unreported in the media. In addition, it alleged that the Director of EMS has acted to protect AMR by manipulating response times and hiding the very careless behavior of AMR. In addition, the complaint called for the examination of the contract accountability by the EMS Agency and so called "misconduct" fines to be paid by the Company (AMR).

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 INVESTIGATION:

Organizations Visited

AMR/LifeCom Call and Dispatch Center in Salida (two visits)
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
City of Tracy Fire Department
San Joaquin County Emergency Medical Services Office
City of Manteca Fire Department
City Ripon Consolidated Fire District
City of Lodi Fire Department

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
Vice President of LifeCom Support
Director of Communications -LifeCom EMS & Fire Dispatch

EMS Administrator
EMS QI/Trauma Coordinator
EMS Specialist

President, Inspironics Corporation

Deputy Chief, City of Stockton Fire Department
Captain, Emergency Communications Director, City of Stockton Fire Department.
Dispatch Supervisor, Stockton Police Department

Chief, City of Tracy Fire Department
Chief, City of Ripon Consolidated Fire District
Chief, City of Manteca Fire Department
Chief, City of Lodi Fire Department
Lieutenant, San Joaquin County Call and Dispatch Center
Supervisory Communications Dispatcher, SJC Call and Dispatch Center
GIS Manager, SJC Community Development Department/GIS
GIS Coordinator, City of Stockton
Lieutenant, California Highway Patrol (CHP), Stockton Area
Public Safety Dispatch Supervisor, CHP, Stockton Area

Documents Reviewed:

1. San Joaquin County Emergency Medical Services Agency EMS Liaison Contact List
2. San Joaquin County EMS Quality Improvement Council Membership
3. Paramedic Services Agreement between San Joaquin County and the City of Stockton, April 9, 1986
4. List of All ALS and BLS Fire Departments in San Joaquin County
5. Letter from AMR to EMS dated August 9, 2006, Re: Appeal of fines for May and June 2006
6. Letter from EMS to AMR dated October 4, 2006, Re: Appeal of Fines for May and June 2006
7. Summaries from the EMS Incident Reporting System concerning Incidents Per Primary Incident Type, Incidents Per Reporting Company, Incidents Per Company Rpt Pertains To, 05/01/2006-01/31/2007
8. Incidents List, Detailed from the EMS Incident Reporting System for 05/01/2006-12/31/2006
9. Incidents List, Detailed from the EMS Incident Reporting System for 01/01/2007-01/31/2007
10. Incident Detail Report, Incident number: 06082553, Incident Date: 10/07/2003, 23:54:12
11. EMS Agency Report on the Exclusive Emergency Ambulance Provider Contract Compliance for AMR for the months of May and June, dated August 13, 2006
12. EMS Agency Report on the Exclusive Emergency Ambulance Provider Contract Compliance for American Medial Response for the months of July and August 2006, dated November 9, 2006
13. EMS Agency Report on the Exclusive Emergency Ambulance Provider Contract Compliance for American Medial Response for the months of September and October 2006
14. EMS Agency Report on the Exclusive Emergency Ambulance Provider Contract Compliance for AMR for November and December 2006
15. Letter to EMS from Stockton Fire Department Consultant/Investigator re: Medical Dispatch-Keyser Drive dated November 8, 2006

16. Letter to the Chairman of the San Joaquin County Board of Supervisors from the Mayor of Stockton dated July 27, 2006
17. Trittech CAD-to-CAD (Computer Assisted Dispatch) Functional Specification Documents
18. Logisys CAD-to-CAD Functional Specifications Documents
19. Unusual Occurrences Filed by the Stockton Fire Department with Delayed Calls Highlighted.
20. CAD-to-CAD Links report (Computer Assisted Dispatch) from AMR/LifeCom to the Stockton Fire Department from September 9, 2006 to March 19, 2007 of responses that were two minutes or longer.
21. Structure Fire Call Times submitted by AMR/LifeCom to EMS that conflict with the times AMR/LifeCom submitted to the Stockton Fire Department.
22. Series of Letters (May 1 and May 2, 2006) from Chief Hittle, Stockton Fire Department to Kenneth Cohen, Director, San Joaquin County Health Care Services, detailing perceived dispatch and communication problems.
23. May 3rd Letter from Kenneth Cohen to Chief Hittle responding to Chief Hittle's letters of May 1 and May 2.
24. Series of Letters (May 5, May 9) from Chief Hittle to Kenneth Cohen detailing perceived EMS system failures.
25. Memorandum dated December 19, 2003 from the San Joaquin County Fire Chiefs Association to Chico Research Foundation with a subject of Redesign of County EMS System.
26. San Joaquin County EMS Agency Continuous Quality Improvement Meeting Rules
27. Letter from the Chief of the Tracy Fire Department, dated February 13, 2007, to the Director of the Administrative Services Department for the City of Stockton concerning the issue of public safety radio frequencies
28. Letter from Chief Hittle of the Stockton Fire Department, dated February 26, 2007, to Chief Bosch of the Tracy Fire Department concerning the Public Safety Radio Frequencies.
29. Report to the Board of Supervisors by the Fire Chief, Ripon Fire District, Chairman, San Joaquin County Joint Radio Users Group (SJCJRUG)
30. March 29 communication from the Stockton Fire Department to EMS, Re: Information Exchange.

31. Unusual Occurrence Case #06489, Public Report, January 29, 2007

Relevant Law and Regulations:

32. Health and Safety Code, Division 2.5, Section 1797.200

33. Health and Safety Code, Division 2.5, Section 1797,204

34. Health and Safety Code, Division 2.5, Section 1798

35. California Code of Regulations, Title 11, Division 9, Chapter 12, EMS System Quality Improvement

Relevant San Joaquin County EMS Agency Policy and Procedures:

36. San Joaquin County EMS Policy No. 540.01 Unusual Occurrence

37. San Joaquin County EMS Agency No. 3001, Guidelines for EMS Call Screening by Primary Public Safety Answering Points

38. San Joaquin County EMS Agency No. 3001A, PSAP Call type Flow Sheet

39. San Joaquin County EMS Agency No. 3101, Emergency Ambulance Service Provider Dispatch Requirements

40. San Joaquin County EMS Agency No. 6620, Continuous Quality Improvement Process

41. EMS Form #6002, Unusual Occurrence Report, August 16, 2006

Relevant LifeCom EMS and Fire Dispatch Policies and Procedures:

42. MPDS Implementation and EMD Call Processing

43. Emergency Call Taking and Law Enforcement/Fire/First Responder Call Notification

44. GIS/GEO File Troubleshoot Procedure

45. Sentinel Event Notification Matrix

46. Letter from EMS to Stockton Fire Department dated November 22, 2006, Re: Unusual Occurrence Report, SJCEMSA Case #6459

47. Letter from EMS to Stockton Fire Department dated November 22, 2006 Re: Unusual Occurrence Report, SJCEMSA Case #6443

48. Data Reduction Methodology used by Inspironics for January 2007

49. Listing of Unusual Occurrence Reports Categorized by Type for EMS Continuous Quality Improvement Meeting of March 15, 2007

FINDINGS:

1. The current method of dispatch has land line 911 calls going to primary Public Safety Access Points (PSAPs). Depending on the location of the call, the call goes to the Stockton Police Department for Stockton, Lodi Police Department for Lodi, etc., and anything in the unincorporated County area goes to the San Joaquin County Sheriff's Department. The fire and medical emergency calls for Stockton, Lodi and Manteca go to the Stockton Fire Department. Stockton dispatches these fire departments as before and at the same time informs the LifeCom center of the medical emergency. County 911 calls go to the Sheriff's Department with fire calls transferred to Stockton as before and medical calls transferred to AMR's LifeCom Center. Since this process is the same as before the new contract was implemented, the dispatch times and service should be comparable.

2. All 911 cell phone calls go to the California Highway Patrol (CHP). In the past the CHP would transfer fire and medical calls to the Stockton Fire Department for dispatch. Since May 2006 the CHP transfers fire and medical calls to AMR's LifeCom Center. As a result of this change some dispatch problems and delays have been occurring. If it is a medical emergency call, both the fire department and ambulance are dispatched virtually simultaneously over the CAD-to-CAD system between LifeCom and Stockton Regional Dispatch Center with a subsequent follow-up phone call. The CAD-to CAD system from LifeCom to Stockton was set up to transfer medical information, not fire information. So if the cell phone call is a fire call, it has been necessary for LifeCom to phone Stockton with the fire information, causing delays longer than before the contract was implemented.

3. Following an extensive review and investigation of the allegation of serious dispatch failures, the Grand Jury has determined that there are at the present time few dispatch failures by AMR which are affecting the response and provision of emergency medical services to the residents of San Joaquin County; given the approximate 3,000 calls dispatched by AMR each month, the failure rate is very low. There were problems at the beginning of the contract; however, with the CAD-to-CAD communications now in place, significant dispatch delays for emergency medical service are not occurring. Many of the Fire Departments noted that there were similar problems in the 1990's when they began to be dispatched by Stockton.

4. In addition to the general investigation of the Emergency Medical Dispatch System, the Grand Jury investigated the specific allegations made by two Fire Departments as well as those contained in the original complaint.

On March 20, the Grand Jury received a list of Structure Fire Incidents that purported to document unacceptable delays as a result of issues with the LifeCom Fire Dispatch Center operated by AMR in Salida. The document indicated that the average time from call receipt to dispatch on structure fires for the last year was 51 seconds. The Grand Jury already had the results of an investigation of these same incidents conducted by the San Joaquin County Radio Users Group (SJCRUG), which had concluded the following: "No delay exists that is inconsistent with those inherent calls coming into the systems from cellular phones." This group also discussed the inherent problems with cellular phone calls and the difficulty of determining location. The full report of this group's findings was presented to the County Board of Supervisors on February 6th, 2007, including a table noting the actual times LifeCom received the call and subsequent dispatch to Stockton. Of special note is the following conclusion from the report: "SJCRUG is pleased with the services we are receiving from LifeCom and are looking forward to our partnerships in the future." The SJCRUG is comprised of representatives from the following fire departments and districts: Escalon, Ripon, Lathrop-Manteca, Farmington, Linden-Peters, Clements, Woodbridge, Tracy, French Camp, Liberty, Mokelumne, Collegenille, Waterloo-Morada, Thornton, Montezuma, and Manteca. The Grand Jury therefore concludes that the current response time is acceptable.

5. Another continuing allegation is that LifeCom does not have an up-to-date Geographic Information System (GIS) file and therefore does not have all of the addresses in the City of Stockton as well as the County. As noted in one Unusual Occurrence Report, there were problems with the GIS used by LifeCom from a private company. However, subsequent to that time, the GEO/GIS database was updated with the County and City Database on November 16, 2006. This action was confirmed by the EMS Office in letters to the Stockton Fire Department dated November 22, 2006. In addition, to confirm this update, the Grand Jury visited the LifeCom Center, observing that an update had been completed, and verifying it with the Stockton GIS Coordinator and the GIS Manager for San Joaquin County. These databases are now transferred to LifeCom on the 15th of each month using File Transfer Protocol (FTP).

6. The Grand Jury found in interviews with staff from the Stockton and Lodi Fire Departments that they believe a private company should not do emergency medical dispatch. Based on this presumption, these cities, plus Manteca, have refused to dispatch medical calls through LifeCom. Some of the background in this matter includes a Memorandum dated December 19, 2003, from the San Joaquin County Fire Chiefs Association to the Chico Research Foundation with a subject of Redesign of County EMS System which they believe was ignored. An earlier agreement between the Stockton Fire Department and AMR to submit a joint application for dispatch fell apart when AMR dropped out of that agreement and subsequently was awarded the contract for dispatch in San Joaquin County. The end result has been a continual process of submitting unusual occurrence reports, which often appear to exaggerate problems and response times. Based on the interviews, documents reviewed, and organizations visited, and as noted above, this process seems to have continued to this day including problems that have already been investigated and/or resolved.

Of particular note, of the 558 Unusual Occurrence reports for January, 117 were generated by the Stockton Fire Department complaining about LifeCom and 423 were generated by LifeCom complaining about the Stockton Fire Department. The remaining unusual occurrence reports, which did not contain so-called "dispatch" problems, have been resolved. A significant number of these Unusual Occurrences were complaints about data missing from the CAD-to-CAD system. It now appears that after many months of replicated complaints about missing data, Stockton and AMR are going to be working on a Phase II of the CAD-to-CAD systems that should include both medical as well as fire dispatch data.

7. Subsequent to the refusal of Stockton, Lodi, and Manteca to change the medical dispatch, San Joaquin County filed a lawsuit to make them comply. Part of the issue now focuses on allegedly contradicting statutes, with the cities noting that the 911 law says that local governments decide where 911 calls go and the County noting an EMS law that assigns responsibility for EMS questions to the County.

8. The Grand Jury investigated the allegations made in the complaint, including negligence, illegality, manipulation of data, and questions regarding the "misconduct fines."

a. The Grand Jury has found no validity in any of these charges. As to covering up problems, they are all examined in the compliance reports presented to the Board of Supervisors and the public has access to all reports on the County's website. In fact, this web site has a great amount of relevant information. The Grand Jury found no indications of a cover-up.

b. As to the manipulation of emergency call receipt, turn over of calls and dispatch, the Grand Jury's investigation found no such manipulation. On the contrary, all data is entered into a database which is immediately replicated a number of times both for back up but also for analysis and compilation by EMS. Only one EMS edit of any item is allowed and it is highlighted for later review. The response data itself is also analyzed and compiled by an outside contractor (Inspironics) who provides this service for five other counties. This data is then sent back to EMS for further review and submission to the Board of Supervisors. Thus the data is examined by both EMS and an outside company. To believe that this Company would jeopardize its reputation and/or contracts with other counties just to manipulate data does not seem reasonable.

c. As to the so-called "misconduct fines," the only actions which have resulted in the reduction of fines are again publicly available on the internet with a letter from AMR to EMS dated August 9, 2006, appealing the fines for May and June 2006. A follow-up letter from EMS to AMR dated October 4, 2006 has the subject: Appeal of Fines for May and June 2006. This letter notes that the fines were reduced after a review and recommendation by the Ambulance Contract Advisory Group (ACAG). No subsequent exceptions have been given nor fines reduced.

9. The Grand Jury finds that the only real threat which might affect the response and provision of emergency medical services to the residents of San Joaquin County has been identified by the EMS Agency itself in its Contract Compliance Report for November and December dated February 27, 2007. The problem identified is the growing problem of delays of transferring care from the ambulances to the emergency departments in the local hospitals. In some hospitals the transfer of care has exceeded four hours with six or more ambulance crews treating their patients in the emergency department hallways waiting for the hospital to accept the patients. The report notes that this problem can lead to AMR's request of more exemptions related to response time, but more importantly it significantly degrades the number of ambulances available for subsequent emergency service and transport. The Grand Jury supports the EMS Agency's efforts to resolve the growing problem of delays of transferring care in the emergency department.

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 PSAP Organization. This collaborative process is crucial to the health and safety needs of the people of San Joaquin County.
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.
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.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The Stockton City Council (all three recommendations), the Lodi City Council (recommendations #1 and #3), and the Manteca City Council (recommendations #1 and #3) 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.

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 (6) six months
- d. The recommendation will not be implemented, with an explanation therefore.



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CASE #11-06 FINAL REPORT:
LATHROP-MANTECA FIRE PROTECTION DISTRICT

REASON FOR INVESTIGATION:

The 2006/07 Civil Grand Jury received a citizen's complaint against the Lathrop-Manteca Fire Protection District, alleging unfair hiring practices in the filling of the position of Fire Inspector I. The complainant alleged that the Fire Department disregarded the published employment qualifications and testing guidelines during the hiring process, with the result that more highly-qualified applicants were passed over

According to the complainant, the department showed preferential treatment by opting to hire the "son-in-law" of the Division Chief/Fire Marshal, who the complainant alleged had no prior fire experience and/or fire-related education.

The complainant also suggested that there were questionable hiring/promotion practices in the past as a result of nepotism within the Lathrop-Manteca Fire Protection District. According to the complainant, nine (9) of thirty-nine (39) employees have relatives working in the fire district.

BACKGROUND:

The Lathrop-Manteca Fire Protection District is a fire district which was organized under the laws of the State of California, specifically the Health and Safety Code section 13800, known as the Fire Protection District law of 1987. The district covers 100 square miles surrounding and including the City of Lathrop, and staffs four strategically located fire stations.

In the last quarter of 2006 the Lathrop-Manteca Fire district posted a job opening for the position of Fire Inspector I with a salary level of \$22.46 per hour in a local newspaper. The application period for the position ran from Monday, October 2, 2006, through Friday, October 6, 2006. Included in the job announcement were a listing of required qualifications and experience, information about the testing process and other pertinent information related to the position.

The job description in the announcement indicated that this position "administers and enforces weed abatement requirements; develops and administers public fire safety education programs; performs more routine fire and life safety compliance inspections; investigates routine complaints of fire/life safety hazards."

The position also requires the following knowledge, skills, and abilities: "Knowledge of Business English including spelling, grammar, vocabulary and report writing, standards; methods of performing basic math operations; principles and practices of hazard abatement and code enforcement, Uniform Building Code; local ordinances related to fire and life safety."

The Minimum Requirements laid out in the announcement are as follows:

"Education: Minimum of two years of college; course work in education, fire prevention, administration of justice, Firefighting position or related code enforcement is desirable. Knowledge of the California Fire Code and California Building Code desirable. Plan review knowledge and background desirable."

"Experience: At least two years experience in the preparation and delivery of educational programs; or at least two years experience in code enforcement work. Experience in computerized systems is required."

"Any combination of education and experience that would provide the knowledge and skills listed."

The job announcement stated that the application process would include a written test given to all applicants, with a requirement of a passing score of at least 70%. The three top-scoring applicants would be called in for an oral interview. The Department received twelve applications in response to the job announcement.

METHOD OF INVESTIGATION:

Site Visits:

- Lathrop-Manteca Fire Protection District Headquarters

Materials:

- Reviewed the job application flyer for the position of Fire Inspector 1
- Reviewed the January 18, 2007, minutes of the Lathrop-Manteca Fire Protection District Board of Directors Meeting
- Reviewed the hiring and employment policies of the Fire Protection District
- Reviewed Ordinance No. 1 for the organization and rules for the Lathrop-Manteca Fire Protection District.
- Reviewed the rules and regulations of the Lathrop-Manteca Fire Protection District.
- Reviewed the Fire Chief's Report to the January 18, 2007, Board of Directors meeting
- Reviewed eleven (11) applications for the Fire Inspector 1 position

Interviews Conducted:

- Fire Chief, Lathrop-Manteca Fire Protection District
- Division Chief/Fire Marshal, Lathrop-Manteca Fire Protection District

FINDINGS:

1. Reviews of the Ordinance No. 1, organization and rules for the Lathrop-Manteca Fire Protection District, and the rules and regulations revealed no formalized policies or procedures regarding the hiring process and other related personnel issues.
2. Reviews of the Ordinance No. 1, organization and rules for the Lathrop-Manteca Fire Protection District, and the rules and regulations revealed no formalized policies or procedures regarding nepotism.
3. The Fire Chief changed the outlined hiring process listed in the job announcement. The written portion of the test was eliminated with some of the intended written questions to be asked during the oral interview. During the last hiring process carried out by the Department, the written test was given as indicated. However, the rules and regulations related to hiring and personnel do not contain specific references to required elements of this process.
4. The Fire Chief and the Division Chief/Fire Marshal selected the three applicants to be interviewed based on their review of the job applications. Grand Jury review of the twelve applications for this position suggests that eliminating the written test may have caused more qualified applicants not to be interviewed since their knowledge and experience may have resulted in higher written scores than the three persons selected by application review for the interviews. In particular, the person selected for the position does not appear to meet the minimum qualifications, based on application review.
5. The Fire Chief explained that the position needed to be filled as soon as possible because of a backlog of work, thus necessitating the truncation of the hiring process. Review of material provided for this investigation suggested that the hiring process was started immediately upon the current Fire Inspector I's promotion to Firefighter. His last day on the job was September 29th, with the job announcement published in the Manteca Bulletin from September 29th to October 1st. The application period closed on October 6th. The person who might have covered this position in the interim was on light duty because of an injury. The Fire Chief decided to shorten the hiring process by eliminating the written portion outlined in the job announcement. The Grand Jury was provided no evidence of a backlog of work necessitating the change in the hiring process.
6. The person hired by the Fire District, although not a "son-in-law" of the Division Chief, is the father of the Division Chief's grandchildren. Although not "nepotism" in the strictest sense, the relationship of these two does suggest favoritism in the hiring process and opens the department to criticism regarding hiring practices.
7. The Grand Jury did find information suggesting that relatives are working together in the Department, but did not have enough information to develop a finding regarding nepotism.
8. The Lathrop-Manteca Fire District Board of Directors discussed the issues raised with

the hiring process, but decided to take no action. The minutes of the meeting reflect disagreement among the individual directors.

9. Although ultimately responsible to the Board of Directors, the Fire Chief has overall responsibility for personnel matters.

RECOMMENDATIONS FROM THE 2006/07 GRAND JURY:

The Grand Jury recommends the following:

1. The Board of Directors should develop formalized policies regarding the hiring of district staff.
2. The Board of Directors should develop formalized policies regarding nepotism (hiring and supervision) in the district.
3. The Fire Chief should follow the steps outlined in the posted job announcement in order to allow for a fair and unbiased hiring process.
4. While the Fire Chief has the authority to hire personnel, it is recommended that the Lathrop-Manteca Fire District Board of Directors more closely monitor the hiring process to eliminate the appearance of favoritism. If possible, an interview panel should be used to avoid the possibility or appearance of favoritism.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The Lathrop-Manteca Fire Protection 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 (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT:
SAN JOAQUIN COUNTY DETENTION CENTERS
AND LAW ENFORCEMENT AGENCIES

The 2006/07 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, members also participated in ride-alongs with various law enforcement agencies in the County. The agencies visited this term included the following:

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

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 (see attached form). Because the San Joaquin County Grand Jury did not utilize a separate Law Enforcement Committee, the facilities were assessed by all members.

In addition, this Grand Jury conducted a follow-up assessment of the recommendations made by the 2005/06 Grand Jury regarding the various facilities. The members reviewed the responses to the 2005/06 recommendations submitted by the responding agencies and assessed the status of implementation.

In general, 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 of the facility's inmates or wards. In general, the members found improvements in many of the items cited in the prior Grand Jury's report and commends the administrative, management, and other staff for their work in achieving improvements. The assessment of each facility follows.

SAN JOAQUIN COUNTY JAIL AND SHERIFF'S DEPARTMENT

The following recommendations were made by the 2005/06 Grand Jury:

Facility

1. We strongly urge you to open the closed 124-Unit Honor Farm building and keep it operating, while assessing opportunities for renovating or replacing current Honor Farm dormitories.

2006/07 Finding: The 124-Unit Honor Farm was opened as of July 2006.

2. We encourage you to find the funding to replace the current kitchen and equipment, making this a priority for completion in the near future. At a minimum, the fans in the doorways should be operating.

2006/07 Finding: The Sheriff's Department acknowledges the need to upgrade the kitchen facilities and is pursuing funding. The fans were repaired immediately following the Grand Jury visit.

3. We encourage you to work with the County Administrator and the Board of Supervisors to develop a strategic and economic plan to construct additional buildings to reduce the number of early releases based on the lack of available beds. We are concerned with the impact on the community of releasing inmates before they have served their court-ordered time in jail.

2006/07 Finding: The Sheriff's Department 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.

Staffing

1. We strongly recommend that you work with the County Administrator, the Board of Supervisors, and the Deputy Sheriffs Association to increase staffing, through improved recruitment procedures and the offering of incentives, while working to increase salary levels to retain trained staff.

2006/07 Finding: The Sheriff's Department 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.

Budget/Finance

1. We strongly urge the department, the County Administrator and the Board of Supervisors to work together to increase the budget for the department to cover the needs outlined above.

2006/07 Finding: Additional budget funding was approved this year which provided for an increase of twenty-two (22) allocated positions, as well as restored funding for four positions.

2. We recommend that the Board and the legislature work together to continue the booking fees or to establish a legislative substitute for this revenue.

2006/07 Finding: The booking fees were continued into the 2006/07 budget year. The state has formulated a compromise funding process to replace the former structure of the booking fees to begin in 2007/08.

Ride-Alongs

1. Assess the functionality of the mobile computer system and make improvements to improve the reliability of the computers.

2006/07 Finding: The units first installed in the cars have reached the end of their operational functionality. The Sheriff's Department is in the process of installing replacement units.

2. Consider the feasibility of purchase of SUV's for some of the unincorporated areas for deputies to use when required to drive in open fields or other similar environments.

2006/07 Finding: Five (5) sport utility vehicles were purchased for the department for use by patrol sergeants.

3. Review the feasibility of providing investigative staff to eliminate some of the follow-up

currently required of deputies in order to keep the deputies free to respond to calls for service.

2006/07 Finding: This was the one finding with which the Sheriff's Department disagreed. The department presented an acceptable rationale for continuing the current law enforcement practices for arresting and booking.

OTHER 2006/07 GRAND JURY OBSERVATIONS:

The 2006/07 Grand Jury toured the Sheriff's Department and the County Jail on September 6, 2006 and found that overall the department and the facility are well managed. The Grand Jury commends Sheriff Robert Heidelberg for his efforts in leading the department on an interim basis until the election of the new Sheriff. The department continues to pursue the hiring of additional deputies, but is hampered by the same recruitment issues which are facing most law enforcement agencies in the state. Therefore response time and overtime are still issues within the department.

The Jail facility appeared clean and well run. Safety incidents have been few and a response team is ready to assist when necessary. The D, E, and F Barracks are in need of replacement, but the Sheriff's Department is managing the area in an efficient way. New beds were on order to replace the old bunks in these areas, and at a later visit, the new beds were in place. Early release remains a significant problem, but until such time as a jail addition is funded by the County, that 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 vocational education programs at the Jail.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

SAN JOAQUIN COUNTY SHERIFF'S DEPARTMENT COURT SERVICES DIVISION

The following recommendations were made by the 2005/06 Grand Jury:

1. That the Sheriff's Department should work with the Board of Supervisors and the Superior Court to improve the process of moving inmates from the holding areas to the courtrooms.

2006/07 Finding: No additional improvements can be made at this time because of

the design of the current building, which prevents construction of such elements as holding cells on each floor. The Sheriff's Department is awaiting updates from California's Administrative Office of the Courts regarding funding for a new courts building.

2. That the vacant positions in Court Services Division be filled.

2006/07 Finding: All vacant positions are filled. New staffing allocations are needed to provide adequate security for the courts. However, that funding comes through the Administrative Offices of the Court and the State Legislature and to this point the additional monies have not been provided.

OTHER 2006/07 GRAND JURY OBSERVATIONS:

The current Grand Jury did not tour this department during its term.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

STOCKTON POLICE DEPARTMENT

The following recommendations were made by the 2005/06 Grand Jury:

1. Improve the processing of detainees and reduce the amount of time an officer is absent from the street by computerizing forms and having other staff available to complete some of the processing, such as photographs and fingerprinting.

2006/07 Finding: The department disagreed with this finding because its view is that police officers have a greater capability in carrying out all the activities following an arrest, in large part because they develop a "rapport" with the person arrested which can lead to obtaining additional information. The department also maintains a policy of not employing civilians to handle prisoners, leaving that duty to well-trained police officers. An automated system is now in place to assist officers in the arrest process and booking process.

2. Assess the functionality of the mobile computer system and make improvements to improve the reliability of the computers.

2006/07 Finding: The department has been replacing units since 2005, with the process continuing. In addition, a vehicle locator system has been implemented to track positions of cars while on patrol. In general, the replacement units have updated capabilities and state of the art operation.

OTHER 2006/07 GRAND JURY OBSERVATIONS:

The 2006/07 Grand Jury toured the Stockton Police Department on October 4, 2006, with an additional later tour of areas not covered in the first tour. In general, the members found that the department appears to be under strong leadership with the new Police Chief and his staff. Filling vacant Police Officer positions continues to be a challenge, with the same barriers to hiring faced by other state law enforcement agencies facing this department. The Crime Lab and the Evidence Room both function well.

RECOMMENDATIONS:

The 2006/07 Grand Jury has no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

DEUEL VOCATIONAL INSTITUTION

The following recommendations were made by the 2005/06 Grand Jury:

1. Better and more frequent cleaning procedures need to be put in place to counteract the messiness created by the high volume of inmates who populate the center. Painting of areas would help to diminish the dinginess currently observed.

2006/07 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.

2. Work with the State Department of Corrections and the California legislature to develop strategies and financing to modify this facility to match its current function.

2006/07 Finding: The State of California has been conducting a structural evaluation of all thirty-three (33) California prisons to assess the capacity and capabilities of each facility. The reception functions carried out at Deuel Vocational Institution currently could possibly be moved to another prison in the state.

3. Work with the State Department of Corrections and the California legislature to develop strategies and financing to increase recruitment and retention activities.

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.

OTHER 2006/07 GRAND JURY OBSERVATIONS:

The 2006/07 Grand Jury toured Deuel Vocational Institute on November 29, 2006, and found that overall cleanliness was much improved compared to the prior year. In particular, the medical portion of the service appeared to be clean and orderly. The functions of the prison seemed to be under control, despite a great deal of inmate movement through hallways and passages. Laundry and kitchen facilities appeared well run. The one portion of the facility which needed improvement was the Y and Z units (the old gymnasium) which is filled with double level bunks and inmates all confined in this area. The Grand Jury hopes that the State of California finds a way in the future to improve the conditions of this prison and others in the state by reducing the number of inmates or building new prisons.

RECOMMENDATIONS:

The 2006/07 Grand Jury has no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

DIVISION OF JUVENILE JUSTICE

The following recommendations were made by the 2005/06 Grand Jury:

N. A. Chaderjian Youth Correctional Facility

1. Ensure that as many wards as possible are able to take advantage of academic and vocational courses to reduce their chances of recidivism upon release.

2006/07 Finding: School closure rates of 53% in July 2005 were reduced to 20% in May 2006. The school offers a wide variety of vocational classes, as well as instructional services at the door and in the classrooms. Many of the teaching vacancies were filled. Some limitations in classroom access are still in place because of the need to separate various members of the youth gangs.

2. Same as #1.

2006/07 Finding: Same as above.

3. Remove the barriers to education by allowing inmates to have regular classes in other

settings than through the bars of the cells.

2006/07 Finding: With the implementation of new elements of the Safety and Welfare Remedial Plan, the Special Management Programs in Kern and Sacramento Halls will be phased out and wards in these programs will be placed in other programs.

4. Take the necessary steps to gain accreditation for the facility and its educational programs in order to improve the potential of wards to re-enter society and find meaningful employment. Promote and encourage a collegial and cooperative environment focused upon team building and mutual respect. Given the nature of the Ward population, challenges are to be expected; however every effort to develop a strong and professional relationship among the Custody and non-custody staff and wards must be the objective. The Western Association of Schools and Colleges (WASC) accreditation is an institutional or campus-wide process and must include all personnel, administrative staff, and the wards if success is to be achieved. The Grand Jury recommends that an aggressive plan be developed to ensure that accreditation for this facility is achieved.

2006/07 Finding: In July 2006, the school was granted a three-year interim accreditation.

5. Work with the state leadership and the Department of Juvenile Justice to bring about needed changes and upgrades in the facility to eliminate safety hazards and improve the overall environment in the facility.

2006/07 Finding: The overall conditions have improved greatly because of a decrease in the number of wards assigned to this facility. The facility continues to address and correct security and safety issues.

6. Appoint leaders to the facility who express a willingness and a resolve to remain with the institution to bring about stable and dynamic leadership to staff and the wards within the facility.

2006/07 Finding: The current superintendent has been in place since April 1, 2006.

7. Work with the state leadership and the Department of Juvenile Justice to improve overall conditions in the operation of this facility and implement a plan to increase the potential ability of wards to re-enter society successfully.

2006/07 Finding: A new program model has been developed and filed with the Court.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

DeWitt Nelson Youth Correctional Facility

1. Increase the number of instructors available to the wards so that regular and consistent educational classes may be held.

2006/07 Finding: The Department implemented an aggressive teacher recruitment program, which resulted in the hiring of additional teachers. The hiring process was speeded up through the state's program, with the result that this school had only one remaining teacher vacancy.

2. An aggressive plan should be developed to promote quality education services directed at achieving curricular and instructional benchmarks. These efforts would only help to strengthen the overall quality and integrity of the program, while preparing to meet the WASC recommendations.

2006/07 Finding: The school continues to work on continuing accreditation, with a standing WASC Committee.

3. Appoint leaders to the facility who express a willingness and a resolve to remain with the institution to bring about stable and dynamic leadership to staff and the wards within the facility.

2006/07 Finding: The current superintendent has been in the position since October 2005.

4. Work with the state leadership and the Department of Juvenile Justice to improve overall conditions in the operation of this facility and implement a plan to increase the potential ability of wards to re-enter society successfully.

2006/07 Finding: The number of wards in each unit has been decreased. A Ward Grievance Program was established, as well as a Ward Incentive Program. The school is also working with juvenile justice experts to prepare wards for re-entry into the community.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

O. H. Close Youth Correctional Facility

1. Make permanent repairs and/or upgrade the alarm system in the facility so that regular failure of this equipment is not a cause for cancellation of classes for the wards.

2006/07 Finding: A new alarm system was installed which has led to fewer class cancellations.

2. Work with state leadership and the Department of Juvenile Justice to recruit new teachers and reduce the barriers to their application and hiring process. Improve working conditions and safety for teachers to reduce turnover.

2006/07 Finding: Teacher recruitment has been improved with the completion of a contract between the State and the Teachers Union, with increased salaries creating a renewed interest in teaching in this system. The department has initiated an aggressive teacher recruitment process with the result that teacher vacancies have decreased.

3. Carefully assess the reading materials available to all wards to ensure that age, maturity, and reading level are appropriate. Remove materials which are inappropriate to these students.

2006/07 Finding: All reading materials are standard teaching materials, with the addition of other materials of interest to students at this age in order to encourage reading.

4. The Administration and faculty need to aggressively pursue the accreditation of the facility's education program to ensure that quality program/services are maintained. Emphasis should be focused up on the WASC school-wide key issues for follow-up:

- Students meeting the daily instructional classroom time
- Measurable benchmarks reflecting student achievement
- Better data collection and analysis to measure student achievement
- Improvement and collaboration among all stakeholders (staff, administration, custody personnel, and wards)
- Promote greater technology in the school's curricular delivery

2006/07 Finding: The accreditation review was completed.

5. Appoint leaders to the facility who express a willingness and a resolve to remain with the institution to bring about stable and dynamic leadership to staff and the wards within the facility.

2006/07 Finding: The current superintendent, a 27-year veteran of the department, has been in place since January 2006.

6. Work with the state leadership and the Department of Juvenile Justice to improve overall conditions in the operation of this facility and implement a plan to increase the potential ability of wards to re-enter society successfully.

2006/07 Finding: The number of wards has been reduced, and a Ward Grievance Program coordinator position was filled. A pilot program has been established to eliminate the temporary detention of the youngest offenders. The Ward Incentive Program has been initiated to provide incentives and rewards to wards who refrain from violence.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

OTHER OBSERVATIONS BY THE 2006/07 GRAND JURY-DIVISION ON JUVENILE JUSTICE:

The 2006/07 Grand Jury found that conditions in all three of the facilities had improved with a reduction in the number of wards contained in each one. Also, the educational programs had shown improvement as well, with WASC accreditation in place or in process. The positions of superintendents at the three facilities had remained consistent for one to two years.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

SAN JOAQUIN COUNTY JUVENILE JUSTICE CENTER

The 2005/06 Grand Jury had no recommendations related to this facility.

2006/07 GRAND JURY OBSERVATIONS:

The 2006/07 Grand Jury toured the Juvenile Justice Center on January 3, 2007. Overall the Juvenile Justice Center appears to be functioning well, with many programs carried out

throughout the community to minimize the number of wards who have to be housed in the units. One strong program provides for peer and community review of offences by first-timers. The success rate for the facility is quite good, with much follow-up through schools and other methods such as electronic monitoring. The agency now has a Youth Advocate who serves as a liaison with the wards to address and resolve their concerns quickly and completely. The facility's newer units, as well as the "camp," are well suited to managing the wards. The average length of stay for wards is 25 days, and a major emphasis is placed on education services. The programs such as Crossroads and Project 654 are important in preventing recommitment of wards, as they deter criminal behavior, with staff reporting that about 87% of the offenders do not return.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations following the tour of the Juvenile Justice Center.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

SAN JOAQUIN COUNTY ADULT PROBATION

The following recommendations were made by the 2005/06 Grand Jury:

1. Continue to work with San Joaquin County Superior Court and the local law enforcement agencies on strategies to reduce the caseloads per Probation Officer to a level more in keeping with other departments in the state.

2006/07 Finding: The County and the Probation Department have been working closely with the San Joaquin County Superior Court since January 2002 to address the caseload of the probation officers in San Joaquin County. Since that time a number of actions have been taken by the Probation Department to keep this issue as a high priority, including completing a survey of other counties in California to compare case loads. This survey showed that San Joaquin is the fifteenth largest County in the state, but it ranks in third place in terms of the number of adults on formal probation. In fiscal year 2004/05 the Probation Department lost nineteen (19) probation officers because of budget reductions. Since October 2005 the Courts agreed to a series of regular meetings with Probation to consider mechanisms for reducing caseloads, including prioritizing services and/or reducing the level of services. One factor contributing to the continuing case load is the overcrowding in the County Jail, which causes early releases of an average of one hundred prisoners each day. Rather than sentencing a person to jail and possible early release, judges sometimes choose probation as a way to monitor the person more effectively. In addition, the judges have individual judicial discretion based on the charges, the

individual charged, and other factors in deciding sentencing.

During the past year, the Grand Jury met with the Probation Department again and with the Presiding Judge of Superior Court to discuss these issues. At the present, no significant changes to the problem of caseloads have occurred. The Grand Jury has no additional recommendations at this time but encourages the County and Superior Court to continue to address this problem through regular collaboration.

RECOMMENDATIONS:

The 2006/07 Grand Jury has no recommendations.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

LODI POLICE DEPARTMENT

The 2006/07 Grand Jury toured the Lodi Police Department on April 25, 2007. The department moved into its current facility about five years ago, after a comprehensive planning stage during which staff toured other facilities to gather ideas for the final design. The result is a facility which separates the various functions of the department into efficient areas, both public and private. Most impressive is the holding cell area where detainees are held until arraignment or when they are returned from the County Jail for court hearings. The area provides for a safe custody environment, with adjacent sally port, as well as allowing for a safe release of detainees (in the former facility, prisoners were released into an office hallway). The department reported about 5,400 arrests during calendar year 2006, with Part 1 crimes (the most serious) showing a 4.26% decrease compared to 2005. The department has a total of 78 sworn officers and 39 non-sworn staff. The department is also organized to provide for convenient and safe entry into the facility for officers with persons being detained, including a separate area for juvenile offenders. Available services in the facility include a crime lab, evidence reception and storage area, and a gymnasium with ample workout equipment for officers.

RECOMMENDATIONS:

The 2006/07 Grand Jury had no recommendations following the visit to the Lodi Police Department.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

No response required.

**2005-2006 San Joaquin County Civil Grand Jury
Detention Facilities/Law Enforcement Assessment**

Date: _____

Facility Name: _____

Representative(s) of Facility: _____

	S	U	NI	NA	Comments
FACILITY					
Modern, up-to-date					
Maintenance and cleanliness					
Adequate space					
Public access					
Restrooms (clean, adequate, placement)					
Equipment					
Food Services					
Visitation Facilities					
Video Surveillance Equipment					
PROCEDURES					
Policy and Procedure Manual (available, up to date)					
Intake, Fingerprint Technology, Prisoner Tracking					
Court Processing (timeliness, efficiency)					
Protection of Inmate Property					
Release of Inmates (timing, accommodation)					
Early Release/Work Release Programs					
INMATES					
Inmate Housing Clean and Adequate					
Graffiti Present					
Oriented to Rules and Procedures					
Rules and Procedures Posted					
Appearance/Condition of Clothing					
Shower Facilities/Frequency					
STAFFING					
Overall adequacy of staffing					
Recruitment procedures, training					
Retention of qualified staff					
Overtime					
Response time to citizens calling for aid					
BUDGET/FINANCE					
Adequacy of funding for operations					

[illegible]

Grand Jury Member: _____

**SAN JOAQUIN COUNTY GRAND JURY
TOURS FOR 2006-2007
(6/01/07)**

DATE	PLACE
9/06/06	San Joaquin County Sheriff's Office and County Jail
9/20/06	Edison High School - Stockton Unified School District
10/04/06	Stockton Police Department
10/25/06	Stockton Fire Department Dispatch Center
11/29/06	Deuel Vocational Institution
12/13/06	Northern California Youth Authority
12/20/06	San Joaquin County Mental Health Services
1/03/07	Peterson Hall - Juvenile Probation
3/07/07	San Joaquin General Hospital
4/11/07	Stockton Metro Airport
4/18/07	Mary Graham Children's Shelter
4/25/07	Lodi Police Department
5/16/07	Weston Ranch High School - Manteca Unified School District
5/30/07	Port of Stockton
6/14/07	San Joaquin County Sheriff's Boating Safety
6/20/07	Mosquito & Vector Control Agency

SPEAKERS
2006-07 SAN JOAQUIN COUNTY GRAND JURY

August 30, 2006	Ron Baldwin, Director-San Joaquin County Office of Emergency Services
August 30, 2006	Ron Girard, City of Stockton Code Enforcement
September 13, 2006	Shabbir A. Khan-Treasurer-Tax Collector Linn Smith,Chief Deputy-Revenue & Recovery
September 27, 2006	Adrian Van Houten-San Joaquin County Auditor Controller
October 11, 2006	Donna Heran, REHS, Director-Environmental Health Department
November 8, 2006	Andrew Chesley, Exec. Director-Council of Governments (COG) Bruce C. Baracco, Exec. Officer-Local Agency Formation Commission (LAFCO)
November 15, 2006	Chris Hope, Chief-San Joaquin County Probation Patty Mazzilli, Assistant Chief Stephanie Bays, Dep. Chief - Field and Court Services Marilyn Martin, Dep. Chief - Juvenile (not present, tour)
December 6, 2006	Fredrick A. Wentworth, Supt.-San Joaquin County Office of Education
December 27, 2006	Thomas R. Flinn, Director-Public Works
January 10, 2007	Gary W. Freeman-Assessor, Recorder/County Clerk
February 21, 2007	Kerry Sullivan, Director - County Planning Department
February 28, 2007	Joe Chelli, Director-Human Services Agency
June 6, 2007	Scott Hudson, Ag. Comm.-Sealer of Weights & Measures, Animal Control
June 6, 2007	Craig Ogata, Director - San Joaquin County Parks & Recreation Dave Beadles, Parks Administrator