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

Hon. Bob W. McNatt
Presiding Judge
Superior Court of California
County of San Joaquin
222 E. Weber Av., Room 303
Stockton, CA 95202

Hon. George J. Abdallah, Jr.
Judge Advisor to the Grand Jury
Superior Court of California
County of San Joaquin
222 E. Weber Av., Room 303
Stockton, CA 95202

Re: 2004-2005 San Joaquin County Grand Jury Final Report

Dear Judge McNatt and Judge Abdallah:

It is with great pleasure that we submit the Final Report of the 2004-2005 San Joaquin County Civil Grand Jury.

The duty that has been delegated to each member of the Grand Jury has been carried out with a sense of purpose and due diligence. Our sincere hope is that the countless hours and combined efforts of research, testimony, field visits, and investigation contained within this report will make a difference in the quality of life for every citizen of San Joaquin County.

We have found that democracy functions well with accountability. However, if left unchecked a mind set of "the end justifies the means," or not taking responsibility for poor decision making becomes the norm. At times this becomes the standard of individuals entrusted with governing public agencies and corporations. Our duty is to focus on oversight of county and public agencies. We have rules and regulations, policies and procedures for our collective protection. However, it seems to be the human condition that if a man is allowed to go his own way, disregarding law, it can eventually lead to the detriment of others. It is our responsibility to make the public aware of breaches in public trust, integrity and inefficiency of public monies. It is also very rewarding to recognize those agencies operating efficiently.

We would like to thank the many department heads, county and city officials who gave their time to prepare documents and information we required for our investigations. Our thanks to the various institutions and departments that made provisions for tours of their facilities. The citizens of San Joaquin County are well served by many hardworking, dedicated officials and staff.

We would also like to acknowledge the invaluable support of Judge Abdallah, as the Grand Jury advisor this year. We also appreciate the advice and assistance received from District Attorney Jim Willett, and Deputy District Attorney Scott Fichtner. The counsel provided by Assistant County Counsel David Wooten helped us to stay on track in preparing the

Final Report. Lastly, our thanks to Trisa Martinez, staff secretary, for her hard work and efforts in making this past year a success.

In closing it has been my honor to have been selected as the Foreperson of the 2004-2005 Grand Jury and to serve with such a committed group of individuals. "Those who have been given a trust must prove faithful to that trust." We have fulfilled that trust to the citizens of San Joaquin County, now we expect the subjects of this report to do likewise.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. White". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping horizontal stroke at the end.

DAVID R. WHITE
Foreperson
2004-2005 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, 2005

The Superior Court of California, County of San Joaquin commends and thanks the 2004-2005 Civil Grand Jury for its many recommendations and contributions to the betterment of San Joaquin County government and civic life. Under the well focused, consistent and able leadership of foreperson, Dave White, this group of citizens undertook the investigation of a wide breadth of issues and followed through with their predecessors' work. The members represent the diverse views, backgrounds and cultures which give richness to San Joaquin County life. They are remarkable also for the thorough approach and spirit they brought to their work.

The Civil Grand Jury is composed of citizens drawn from the community. They serve as an independent body under the court's authority. The 2004-2005 San Joaquin County Civil Grand Jury now takes its place in a long history of citizen Grand Jurors born in the English Common Law of 1166, adopted during the American Colonial Period and codified in California in the 1880's. The 2004-2005 Civil Grand Jury sets forth in these reports to the public the substance of their investigations and specific recommendations which are the result of their deliberations, collective wisdom and experience. The recommendations are based on the concept of government accountability to its citizens.

As Supervising Judge, it has been my responsibility and privilege to review the work of the Civil Grand Jury and serve as one of several advisors. I am well aware of the perceptive and industrious efforts of these citizens. They each have given life to their deep beliefs in our system of government through their time, effort and commitment. Each citizen of San Joaquin County benefits from the Grand Jurors having fulfilled their civic duty.

Congratulations for your many accomplishments and thank you citizen members of the 2004-2005 San Joaquin County Civil Grand Jury.

Hon. George J. Abdallah, Jr.
Supervising Judge

Executive Committee: David White, Foreperson,
Lorraine Bulthuis, Vice Foreperson
Jean Laosantos, Secretary



Seated: Yvette Sharp, Janet Cameron, Inez Aldridge, Jean Laosantos, Lorraine Bulthuis
Second row: Leonard Humphreys, David White, Albert Moore, Steve Sanchez, Vincent Loduca
Third row: Paul Harpainter, Richard Siria, Matthew Sickler, Earnie Jordan, Michael Chavez, Randy Knodt
Not pictured: Anne Duffy and Lina Longmire

QUALIFICATIONS

A grand juror *must meet all* of the following qualifications:

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

A grand juror cannot.....

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

Other desirable qualities:

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

DUTIES

The grand jury is a body of 19 citizens who are charged and sworn to investigate county matters of civil concern as well as inquire into public offenses committed or triable within the county. Grand jury duties, powers, responsibilities, qualifications and selection processes are outlined in the California Penal Code section 888 et. seq.

The grand jury reviews and evaluates procedures, methods and systems utilized by government to determine whether they can be made more efficient and effective. It may examine any aspect of county government and city government, including special legislative districts and joint powers agencies, to ensure that the best interests of San Joaquin County residents are being served. The grand jury may inquire into written complaints brought to it by the public.

The grand jury functions lawfully only as a body; no individual grand juror acting alone has any power or authority. Meetings of the jury are not open to the public, and discussions and voting are required by law to be kept private and confidential.

The Penal Code requires the grand jury to:

- Inquire into the condition and management of the public prisons within the county;
- Investigate and report on the operations, accounts and records of county officers, departments or functions;
- Inquire into the willful or corrupt misconduct in office of public officers; and
- Submit a final report of its findings and recommendations no later than the end of its term to the Presiding Judge of the Superior Court. Agencies to which these recommendations are directed are required to comment.

HISTORY

The grand jury may conduct hearings to determine whether there is sufficient evidence to bring an indictment charging a person with a 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 grand jury has the power of subpoena.

The origin of the grand jury has been traced to the time of the Norman Conquest of England in 1066. Generally, historians agree that the assize (inquest) of Clarendon in 1164 was the genesis of our present grand jury system.

In the United States, the Massachusetts Bay Colony impaneled the first grand jury in 1635 to consider cases of murder, robbery and wife beating. By the end of the colonial period the grand jury had become an indispensable adjunct of government. Grand juries proposed new laws, protested against abuses in government, and wielded tremendous authority in their power to determine who should and should not face trial.

The grand jury in California is unique in that its duties include 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. The earliest reference to the existence of a grand jury in California is dated 1849.

REPORTS

As an independent agency, the Grand Jury maintains its own website. You may find past and present reports on the Grand Jury pages of the San Joaquin County Superior Court website: www.stocktoncourt.org/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 at:

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

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

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

COMPLAINT STATISTICS

The 2004-2005 Grand Jury received a total of 36 complaints. Three additional complaints were forwarded to us from the 2003-2004 Grand Jury. Of the 39 complaints we reviewed, we issued seven reports. Nine more final reports were the result of follow-up investigations of previous Grand Jury reports. We did not take action on 16 other complaints because there was not enough information provided and/or the department in question was not under our jurisdiction.



Grand Jury
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(209)468-3855

FINAL REPORT
CASE #0703 SAN JOAQUIN COUNTY PUBLIC GUARDIAN
CONSERVATOR'S OFFICE

REASON FOR INVESTIGATION:

The 2003-2004 Civil Grand Jury received a complaint dated April 23, 2004 alleging that the San Joaquin County Public Guardian/ Conservator's Office (PG/CO) had failed to preserve the estates of conserved persons. The complaint further alleged that the PG/CO planned to eliminate part time auditors before completing a scheduled internal audit. Since there was insufficient time to complete an investigation, the 2003-2004 Civil Grand Jury left the matter to the discretion of the 2004-2005 Civil Grand Jury. Owing to the severity of the allegations and since prior Grand Jury recommendations to the PG/CO had not been implemented, this Grand Jury voted to open an investigation.

BACKGROUND:

A conservator is a person or agency appointed by the court to act in the best interest of a conservatee. The conservator may be a public agency (Public Guardian) or a private person or agency. It is the responsibility of the PG/CO 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 him/her conservator 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 San Joaquin County Conservator's Office currently has 1149 clients.

The court can appoint conservatorship for the person, the estate, or both. Conservatorship "of the person" makes arrangements for the client's care and protection and determines where the client will live. This type of conservatorship makes arrangements for food, clothing, shelter, health care, housekeeping, recreation and transportation. Conservatorship "of the estate" manages the client's finances, locates and controls assets, collects income due, pays bills, invests money and protects the client's assets. As conservator of the estate, the Public Guardian is responsible for prudent use of a client's money and property. All assets must be reported to the court by filing an Inventory and Appraisal within ninety days of appointment. The Inventory and Appraisal sets the initial amount for which the conservator is accountable and an accounting must be filed with the court one year after appointment.

CHRONOLOGY

- The 2000-2001 and 2001-2002 Civil Grand Juries conducted detailed investigations of the PG/CO and the Department of Mental Health Services. These Grand Juries reviewed financial audits of the PG/CO from January 1989 to June 1991 and from January 1996 to June 2000. Grand Jury members conducted an independent review of the administrative policies and procedures of this agency and found outdated policies, errors regarding income and disbursement of funds, and incorrect or careless documentation.
- In 2002 a criminal investigation was conducted in the Conservator's office after allegations of fraud and elder abuse arose. A Deputy Public Guardian was arrested on charges that she conspired to steal money from the elderly and mentally ill. She was fired in 2002.
- In 2002 the San Joaquin County Board of Supervisors signed a contract to hire an Interim Public Guardian with an order to revise the outdated policy and procedure manuals.
- On February 11, 2003 the San Joaquin County Board of Supervisors approved a plan to reorganize the PG/CO. The reorganization plan included a change in the reporting structure and focused on four basic areas, Organizational Autonomy, Management, Organizational Structure and Staffing Resources.
- In May 2004 a former Deputy Public Guardian, three family members and a friend were charged with "theft of an elder or dependent adult by a caretaker, conspiracy to commit a crime and conflict of interest". All defendants pled not guilty. Charges were later dismissed against one defendant, one defendant pled no contest to a lesser charge and a former Deputy Public Guardian denied all charges.
- On June 1, 2004 San Joaquin County hired a full time Public Guardian/Conservator, Ms. Scarlett Hughes.
- Conspiracy and theft charges were dismissed against one defendant in October 2004.
- On April 11, 2005 a former Deputy Public Guardian appeared in court for sentencing. Three counts against the defendant were reduced to misdemeanors upon payment of \$2,000.00 to the Human Services Agency. The defendant was ordered to pay miscellaneous fines and fees to the court by July 11, 2005.

TYPES OF CONSERVATORSHIP

The Conservator's Office has oversight of three groups of clients, which includes two types of conservatorship: LPS and Probate. LPS refers to the Lanterman-Petris-Short (LPS) Act which passed in 1969 and specified rights and protections for mental health clients including civil commitment procedures. The intent of LPS was to end inappropriate, indefinite and involuntary institutionalization of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism. The LPS Act also intended to protect public safety. There is no typical LPS conservatee, but this type of conservatorship includes individuals who may be psychotic or in a hospital with little property or income. LPS conservatorship automatically terminates after one year, but the conservator at a court hearing may renew it. The PG/CO currently handles approximately 304 LPS cases.

Probate conservatorship is initiated for an individual who is unable to provide for his or her personal needs for physical health, food, clothing or shelter and who is unable to manage his property or financial resources or resist fraud or undue influence. Conservatorship may be for the person, the estate or both. Probate conservatorship is used primarily for elderly individuals who can no longer function independently. A Probate Conservatorship client is typically an elderly person whose mental and physical impairment usually develops with advancing age. A probate conservatee may suffer from mild mental dysfunction and may lack the judgment and/or ability to properly manage his/her estate. This client often lives alone and may have a substantial estate. The duration of Probate Conservatorship is indefinite, but either the conservatee or the conservator may petition the court for termination at any time. The PG/CO handles approximately 119 Probate cases.

REPRESENTATIVE PAYEE

A Representative Payee is an individual or organization selected to manage the finances of someone who cannot do so on his/her own. The Social Security Administration stipulates that the person or organization acting as Representative Payee maintain detailed records and provide for the basic needs of a client including food, clothing and shelter. In San Joaquin County, the Social Security Administration has a list of organizations authorized to function as a Representative Payee. This list is made available to clients who can select or change their Payee as they see fit.

The Public Guardian/Conservator serves as Representative Payee and in San Joaquin County, he/she arranges services for approximately 700 residents who cannot manage their own finances. The client's funds must be used for personal care, food, clothing, shelter, recreation and miscellaneous expenses. Excess funds must be preserved for the beneficiary, but the Public Guardian has no authority for placement, care or medical decisions for these clients.

The PG/CO is not court mandated to provide services for Representative Payee clients. In San Joaquin County, many Rep Payee clients have substance abuse and behavioral problems and require services from the Behavioral Health system. In an effort to preserve client funds, Deputy Public Guardians will issue small checks on a daily or weekly basis for a client's personal needs. In the San Joaquin County Conservator's Office, Deputy Public Guardians are responsible for Representative Payee clients who consume up to 90% of the deputies' time performing mainly clerical and referral duties. The labor involved to service Representative Payee clients takes the Deputy Public Guardians away from their duties and responsibilities to LPS and Probate clients and creates difficult to manage case loads. In an effort to reduce the Deputy Public Guardian's work load, the Public Guardian/Conservator is proposing a reorganization that would assign Representative Payee clients to Account Managers to lower Deputy Public Guardians' case loads.

ORGANIZATION

The Public Guardian reports directly to the Director of Health Care Services, but must get approval from Behavioral Health management for budgetary items. The following organizational chart shows the reporting structure of the PG/CO. (See Attachment 1)

ANALYSIS

The San Joaquin County Civil Grand Jury has no jurisdiction over the Public Guardian Offices in other counties, but during the course of this investigation we chose to review the Conservator Offices in Stanislaus and Sacramento counties to compare operations, caseloads, and policies and procedures.

COUNTY COMPARISON

COUNTY	PROBATE CASES	LPS CASES	REP PAYEE CASES	DEPUTY PUBLIC GUARDIANS	AVERAGE CASE LOAD
Sacramento	190	400	100	22	40
Stanislaus	75	75	25	4	38
San Joaquin	119	304	724	8	143

Stanislaus and Sacramento County Public Guardian/Conservator Offices typically do not act as Representative Payee as does San Joaquin County. Sacramento County has privatized case management and Representative Payee responsibilities. Non-profit and for profit organizations are on a referral list provided by the Social Security Administration and is made available to clients who need assistance managing his/her finances. In Stanislaus County, Catholic Charities of Modesto has a 10-year history as Representative Payee for approximately 85 clients and has developed an excellent service network with city and county agencies and local financial institutions. In San Joaquin County, some community organizations have expressed an interest in the Representative Payee program and, at the time of this investigation, were engaged in conversations with the Social Security Administration to position themselves to serve as Representative Payees. Catholic Charities of Stockton was recently approved to serve as Representative Payee by the Social Security Administration and is bonded and prepared to receive clients in the county. The Gospel Rescue Mission in Stockton serves as Representative Payee for approximately 225 clients, many with substance abuse problems. The Representative Payee program was well run and had on site services to provide for food, clothing and shelter for clients in need. The non-profit agencies we interviewed had experience in dealing with clients who had behavioral, addiction and other social problems and with referring them to community resources as necessary.

PERSONAL PROPERTY

The Sacramento County PG/CO inventories each client's personal property and manages a 15,000 square foot warehouse to store it, but no property can be stored for any client who cannot pay the storage cost. Property is inventoried annually. A small, fenced, locked space adjacent to the property warehouse stores vehicles. A vehicle description, appraised value and storage location is on file for the vehicles. At the time of the Grand Jury visit, only one vehicle was stored at this facility.

Stanislaus County does not currently store clothing or personal effects for clients and uses community organizations to assist with the sale of personal property.

In the past the San Joaquin PG/CO maintained a central warehouse where the conservatees' personal belongings were stored. The warehouse needed repair, was not properly ventilated to protect client property and did not have the proper equipment to move and store property without endangering the Deputy Public Guardian handling the property. One Deputy Public Guardian was in charge of the warehouse and responsible for cataloging, organizing and palletizing the property. Owing to the poor condition of the warehouse, in September 2004, the PG/CO secured and moved to a new storage facility and purchased supplies that would facilitate proper storage of conservatee property. As of March 2005, the San Joaquin County PG/CO stored 17 vehicles belonging to LPS and probate clients in a parking lot at Behavioral Health. The parking lot was unsecured, the vehicles were left unattended, exposed to the elements and allowed to deteriorate.

COMPUTRUST

CompuTrust is a multi-faceted computer database used by the Sacramento and San Joaquin County Conservator's Offices to track a client's name, date of birth, current address and family information. Computrust is equipped with an accounting module to enter deposits and disbursements and a property module that can be linked to it to track client information. The CompuTrust Account in the Sacramento office is managed and reconciled daily by a senior accounting manager. The San Joaquin County PG/CO balances its daily work at the end of each day; however the Wells Fargo bank account where the money is deposited has not been reconciled with CompuTrust since June 2004 and the PG/CO did not have anyone with either the knowledge and or the experience to complete the reconciliation at the time of the Grand Jury investigation. Stanislaus County Public Guardian/Conservator's Office switched from CompuTrust to a different computer database and audits its accounts daily. At their request, the office is audited every 2 years by an outside auditing firm.

POLICIES AND PROCEDURES

Revisions to the Policy and Procedure Manual at the PG/CO have been ongoing since the year 2000. The Sacramento Public Guardian/Conservator's Office Policy and Procedure Manual is available on line, on CD and in a manual for Deputy Public Guardians to use. The new Public Guardian/Conservator in San Joaquin County has extensive policy and procedure writing experience because she managed the project to rewrite and revise the Sacramento County Policy and Procedure Manual for the Public Guardian/Conservator office. This effort

took approximately three years to complete. The new Public Guardian/Conservator is in the process of updating and revising existing policies, but at the time of the Grand Jury investigation, the San Joaquin County Policy and Procedures manual was still in rough draft form.

METHOD OF INVESTIGATION:

The Grand Jury did the following during the course of their investigation:

1. Requested and reviewed Policy and Procedure manuals, job descriptions, salary and class studies and organizational charts for San Joaquin, Sacramento and Stanislaus County Public Guardian/Conservator Offices
2. Interviewed the Public Guardian, Deputy Public Guardians, Accounting Technicians, and the Interim Public Guardian in San Joaquin County
3. Interviewed the Public Guardian/Conservator in Sacramento and Stanislaus counties
4. Conducted site visits in San Joaquin, Sacramento and Stanislaus counties to view office operations and vehicle and property storage areas
5. Conducted a site visit to the Behavioral Health parking lot where 17 vehicles belonging to conservatees were stored
6. Visited non-profit agencies in Stanislaus, San Joaquin and Sacramento counties who served as Representative Payees in a fee for service agreement with the Social Security Administration
7. Interviewed owner/operators of a local storage facility who contracted with the PG/CO to store personal property

FINDINGS:

The Grand Jury found that the (PG/CO):

1. Held 17 vehicles belonging to conservatees in an unsecured lot, exposing them to the elements, which resulted in deterioration and loss of value to the conservatees' estates.
2. Had no current policies and procedures to identify, store and dispose of personal property of conservatees or to conduct "Inventory and Appraisals"
3. Underutilized CompuTrust modules resulting in missing or incorrect information on 50-75% of client accounts
4. Failed to preserve the estates of some conservatees as evidenced by unsecured vehicles and the inability to sell vehicles due to missing "Inventory and Appraisals"
5. Failed to complete client account audits on 40-50% of their existing client base.
6. Requests were made to purchase a ladder, a memory chip for a digital camera, a hand truck and a furniture dolly for the conservatee warehouse, but the requests were denied by management from Behavioral Health. The PG/CO must get approval from Behavioral Health management to use a county vehicle, to conduct routine business including visits to clients and managing the clients' properties.

CONCLUSION:

The Grand Jury investigation focused on two primary allegations: 1) auditors were scheduled to be laid off without completing account audits and 2) the PG/CO failed to protect the estates of conserved individuals. Based on the current investigation, the Grand Jury concludes that the allegations in the original complaint are true. Audits were completed on caseloads of specific workers who were under criminal investigation by the District Attorney's Office. Random audits were done on the remaining cases, but the Grand Jury found no evidence that an audit was completed on all cases in the Conservator's Office. Due to the high turnover in the Conservator's Office and the fact that most of the Deputy Public Guardians have less than one year of service in the office, it is the opinion of the Grand Jury that a full account audit would not be advantageous.

Owing to a lack of systems for performing basic clerical and accounting duties, and the low staffing levels, estates for some conservatees were not monitored resulting in failure to collect fees for several years. At the time of our investigation the Public Guardian/Conservator had a part time data entry person assigned to review all client accounts starting with the conservatorships. The data entry person was responsible for pulling case files, reviewing court documents, verifying information and updating client data in CompuTrust. The Grand Jury concludes that the data entry position would go a long way towards reconciling conservatorship accounts and determining what authority the PG/CO had.

It is the opinion of the Grand Jury that shifting Representative Payees from Deputy Public Guardians to Account Managers does not solve the problem of heavy case-loads. Currently each account manager is assigned to support a Deputy Public Guardian making the caseloads the same. With the proposed reorganization, accounts would not be co-mingled. Account Managers would do the bill paying for payee cases and Deputy Public Guardians would handle all LPS and Probate Conservatorship cases. We heard credible testimony that current staffing levels at the PG/CO would be enough to provide adequate supervision of client accounts if the office was not responsible for Representative Payee accounts.

The Grand Jury concluded that inexperience, low staffing levels, poor accounting and a lack of systems and management direction contributed to the poor performance of the agency. The new Public Guardian has taken positive steps to address issues at the Conservator's Office and Ms. Hughes has started an aggressive plan to reorganize the (PG/CO), improve staffing levels and raise the level of experience in the areas of accounting and property management but she still has a way to go.

RECOMMENDATIONS:

The Grand Jury recommends the PG/CO take immediate steps to:

- 1) Operate and function as a separate budget unit independent from Behavioral Health as in Sacramento and Stanislaus Counties
- 2) Complete revisions to the Policy and Procedures manual

- 3) Complete the reconciliation of all accounts in CompuTrust to the Wells Fargo client account
- 4) Add a senior accounting position with managerial experience to ensure bank reconciliations are balanced daily
- 5) Review Representative Payee accounts and identify clients who are independent enough to be their own payee
- 6) Transition remaining Representative Payee clients to community agencies
- 7) Dispose of all stored vehicles and eliminate the need for long-term storage
- 8) Train all users to maximize their competency in operating CompuTrust computer database modules

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 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:

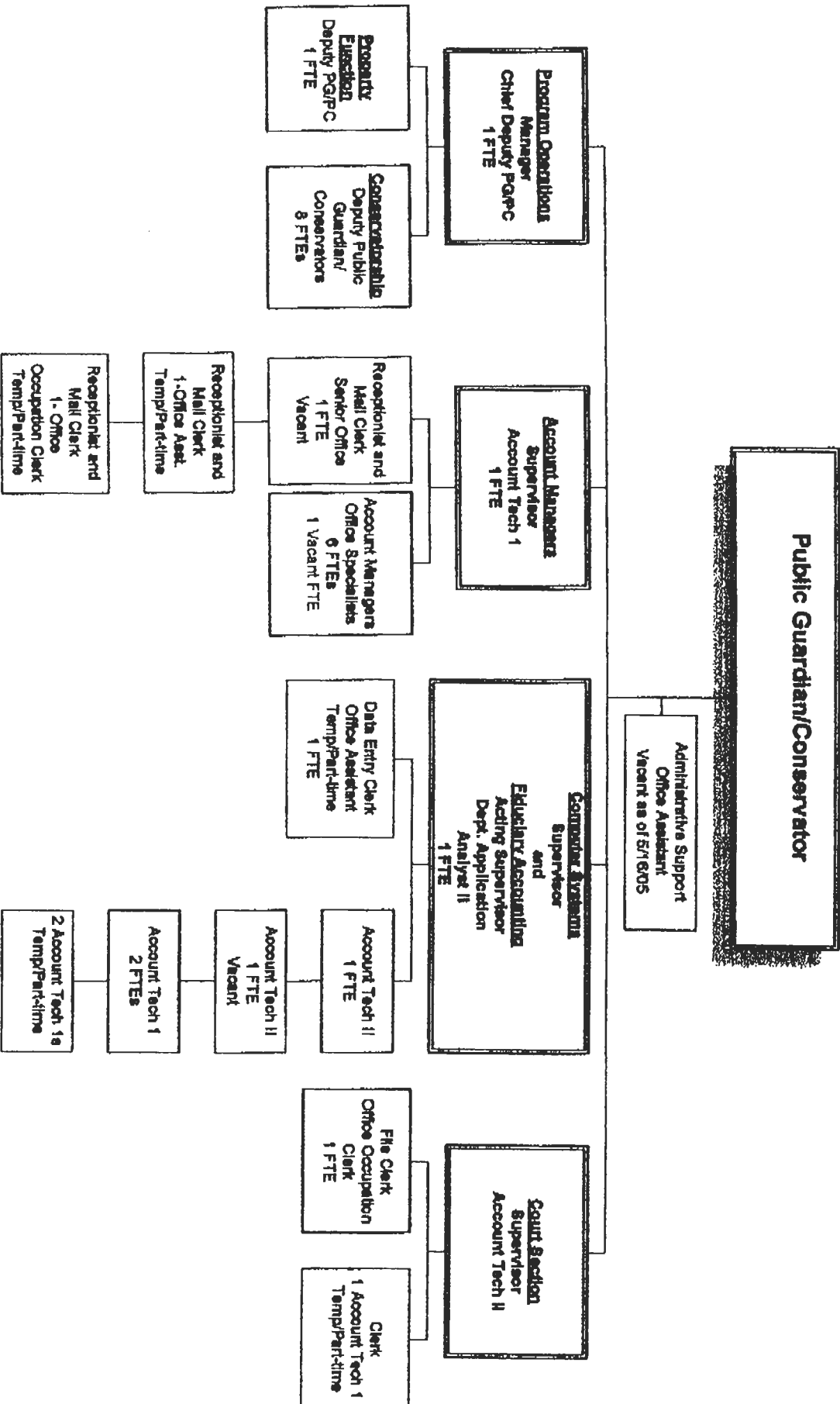
- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

**San Joaquin County
Public Guardian/Conservator's Office
Organizational Chart
May 11, 2005**

Red = Temp-partime
Blue = Vacant Position





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

FINAL REPORT
CASE #0204 SAN JOAQUIN COUNTY MENTAL HEALTH
(BRIGHT HOUSE)

REASON FOR INVESTIGATION

The San Joaquin County 2003-2004 Civil Grand Jury passed to the 2004-2005 Grand Jury a complaint which questioned the process that establishes conservatorships in the San Joaquin County Mental Health Department. Subsequently, the same complainant sent to this Grand Jury a second letter reiterating his original grievance and adding an allegation that Bright House (a Phoenix Programs Inc. facility under contract with the San Joaquin County Mental Health Department) was not providing appropriate care.

BACKGROUND

The 2003-2004 Grand Jury received the complainant's original documents in June 2004, and they referred them to the 2004-2005 Grand Jury. The subsequent addendum was received directly by this Grand Jury. The complaint alleged improprieties regarding the conservatorship of an adult Conservatee citing concerns and questions regarding the conservatorship process. The addendum alleged that the staff of Bright House, a voluntary transitional residential treatment program for the mentally ill, lacked knowledge of their responsibilities to ensure that the medical needs of Conservatees were being adequately met.

METHOD OF INVESTIGATION

Regarding the Mental Health conservatorship process, the Grand Jury interviewed:

- Bruce Hopperstad, Director of Mental Health
- John Schaeffer, Deputy Director of Mental Health
- Ellen Schwarzenberg, Public Defender, in charge of conservatorships
- The complainant

Regarding Bright House:

1. Members of the Grand Jury made unannounced visits to all three Phoenix Program Inc. mental health facilities in Stockton (Bright House, Mourfield House and Grant House)

2. Different members of the grand jury visited Bright House on three different occasions
3. A previous Bright House employee was interviewed

The Grand Jury also reviewed:

- o Policy and procedures manuals for Bright House, Mourfield House and Grant House
- o The most recent Community Care Licensing Facility Evaluation Report on Bright House
- o The State Department of Mental Health report on Bright House

FINDINGS AND CONCLUSIONS

Regarding the Mental Health Conservatorship Process:

The 2004-2005 Grand Jury found that there was no basis for the original complaint which questioned the process that establishes conservatorship. Law dictates that at the age of 18 an adult individual has the right to confidentiality regarding his or her conservatorship, and it is not in the Grand Jury's jurisdiction to investigate such matters.

Regarding Bright House the Grand Jury found:

1. The facility to be in compliance with their guidelines and procedures
2. The facility was well organized and run with minimal supervision
3. Staff members were respectful of individuals' right to make choices
4. Residents were encouraged to participate in groups, meals and social interaction but were allowed to exercise free will
5. Staff appeared to be caring and concerned about the residents and their well being
6. Community Care Licensing has placed Bright House on a random visit list, meaning Bright House need only be visited once in a 1-5 year period
7. State Department Mental Health Report found Bright House to be in compliance to its standards

RECOMMENDATIONS

The Grand Jury does not have any recommendations regarding conditions or services at Bright House or other Phoenix Program facilities located in San Joaquin County.

SUGGESTIONS

To better assist clients, and to create a sensitive, supportive climate, San Joaquin County Mental Health Department should increase efforts to inform patients' families of department policies and actively refer concerned family member to a Mental Health Ombudsman, when additional support is needed.

RESPONSE REQUIRED

No response is required.



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FINAL REPORT

CASE #0304 SAN JOAQUIN COUNTY SHERIFF'S OFFICE

REASON FOR INVESTIGATION:

The 2004-2005 San Joaquin County Civil Grand Jury questioned the propriety of the San Joaquin County Sheriff's Department hiring a deputy who had been involved in an on-duty shooting death in another jurisdiction. It was also noted that this applicant had received a medical retirement from his former employer, and he apparently continues to draw this benefit while a deputy in San Joaquin County.

BACKGROUND:

The San Joaquin County Sheriff's Department, according to its policy and procedures, can hire any qualified applicant for the position of Deputy Sheriff II who:

- Possesses a POST Certification
- Passes all of the necessary testing for the position

Testing for the position of Deputy Sheriff II includes:

- Written exam
- Oral interview
- Background investigation
- Psychiatric evaluation
- Medical evaluation

The hiring procedure is as follows:

- The Sheriff's Department advertises for Sheriff's Deputy positions
- Applications are screened San Joaquin County Human Resources Department and then forwarded to the Sheriff's Department
- Applicants are administered a written exam
- Applicants who pass the written exam are administered a medical exam which is provided by a San Joaquin County contract physician
- Applicants who pass the physical are then given an oral interview conducted by three (3) persons (two lieutenants and one person from human resources)
- Applicants who pass the oral interview become the subject of a thorough background investigation conducted by the San Joaquin County Sheriff's Department
- Applicants whose background has been cleared are now administered a psychiatric exam conducted by a San Joaquin County contract psychiatrist
- Applicants are scored on the various tests and a list of potential hires is compiled

- The Assistant Sheriff reviews the list and offers the position of Deputy Sheriff II to the applicant whom he selects from that list. (In this case, because of the controversial background of the applicant [the then acting] assistant sheriff referred the applicant to the [former] Sheriff for final approval)

METHOD OF INVESTIGATION:

The Civil Grand Jury's scope of investigation included the following:

- Visits to the San Joaquin County Sheriff's Office
- Interviews with:
 - Sheriff Baxter Dunn
 - Assistant Sheriff Steve Moore
 - Assistant Sheriff John Drummond
 - Sheriff Captain Rick Sealy
 - Don Turko, San Joaquin County Director of Human Resources
 - Cindy Clays, San Joaquin County Employment Services Manager
 - Lori Freitas, San Joaquin County Senior Personnel Technician
 - Robert Palmer, San Joaquin County Retirement Administrator
- Review of law enforcement hiring practices with:
 - Tracy Police Department
 - Manteca Police Department
 - Lodi Police Department
 - Deuel Vocational Institute
 - Ripon Police Department
 - Stockton Police Department

FINDINGS AND CONCLUSIONS:

The 2004-2005 Civil Grand Jury finds the following:

1. The San Joaquin County Sheriff's Department followed all hiring procedures and policies
2. The hiring board consisted of three (3) members, one HR representative and two (2) Deputy Sheriffs as prescribed
3. It is not illegal or against San Joaquin County Sheriff's Department policy to hire an individual who is receiving job related disability payments from a plan other than the San Joaquin County Sheriff's Department plan
4. The Applicant passed **all** tests and the Sheriff's Department considered him the most suitable of the candidates
5. There was some public perception that the Sheriff's Department was arbitrarily hiring a deputy who had a controversial past, but the Grand Jury found this moot because the applicant had been legally exonerated of any culpability in the earlier shooting incident.
6. There are employees in San Joaquin County (and probably throughout the state of California), who have been retired on a any medical disability and having recovered from that disability, have accepted identical or similar work elsewhere while

continuing to receive full retirement benefits in addition to their salary. This is made possible because different jurisdictions use different retirement systems. Individuals do this by accepting employment in places offering a different retirement system from the one which granted the initial full disability retirement.

RECOMMENDATION:

The 2004-2005 San Joaquin County Civil Grand Jury recommends the following changes to the Sheriff's Department Hiring Policy and Procedures:

1. Anyone receiving medical retirement benefits would not be eligible for employment unless he or she waives those benefits.
2. There be only one representative of the San Joaquin County Sheriff's Department included on the oral interview board and that the second law enforcement officer come from an outside agency.

In addition, the Grand Jury further recommends that:

3. Some authority higher than this county look into the problem of retirement "double dipping" and require coordination of retirement systems to prevent it. This would save the taxpayer a substantial amount of money.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Sheriff's Office shall report to the Presiding Judge of the San Joaquin 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 the 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
CASE #0404 CITY OF TRACY

REASON FOR INVESTIGATION:

On July 15, 2004, the San Joaquin County Civil Grand Jury received complaints directed against the Tracy City Manager's Office as follows:

1. All complainants alleged a) that the Assistant City Manager used her influence to hire a former colleague of hers over more qualified candidates, and b) that, in doing so, she violated City of Tracy policy and procedures, c) that there was racial discrimination involved in the appointment.
2. One of the complainants further alleged that a) when the new hire failed to perform her job satisfactorily and was terminated, the Assistant City Manager was involved in rehiring her to a new position in another department, and b) that the Assistant City Manager initiated fruitless investigations of the Human Resources Department using expensive outside investigators on matters more properly handled in house.

BACKGROUND:

The City Council of Tracy appoints the City Manager based on executive and administrative qualifications and ability. The City Manager is the administrative head of the city's government under the direction of the City Council. He or she is ultimately responsible for all the operations of the city, but can delegate his/her authority to the Assistant City Manager and to the department and division heads. The City Manager's powers and responsibilities include:

- The power to appoint, remove, and demote any and all Officers and employees of the city except the City Clerk, the City Attorney and the City Treasurer
- The duty to keep the City Council advised on the financial condition and needs of the city
- The duty to present the annual budget to the City Council for approval
- The duty to enforce all of the City of Tracy's administrative policies and procedures

The Assistant City Manager, who is the focus of our investigation, serves as the department head of Human Resources Division, and oversees the City Clerk's office, the Cultural Arts program, and other tasks as delegated by the City Manager.

On 6/11/2001 the City of Tracy, Human Resources Division placed an advertisement for a Human Resources Analyst as a result of which a list of qualified candidates was completed. As a part of the hiring process, The Human Resources Manager, who works under the Assistant City Manager, developed, and then validated an oral examination test of 11

questions based on the analyst job description. The oral interview is the final step in the lengthy process of hiring a new employee.

Subsequently, the Assistant City Manager removed several test questions and replaced them with specialized questions related to police work that reflected the work experience of one of the three candidates under consideration. This candidate was previously trained by and worked under the direct supervision of the current City of Tracy Assistant Manager when both worked for the City of Milpitas. When the Qualifications Appraisal Board met to make the final selection of the three candidates in consideration for the analyst position, it was this amended examination that was used.

According to the City of Tracy Policies and Procedures: "The Qualifications Appraisal Board may be composed entirely of City Employees, provided that such persons are neither the appointing authority for the positions being examined, nor are currently the immediate supervisor of a candidate."

Because one of the Appraisal Board members cancelled, the Assistant City Manager served as one of the three members of the Qualifications Appraisal Board on the day of the test. She did not interview or rate two of the candidates, one of whom was a current Human Resources employee and the other, the person with whom she had previously worked. She did, however, lead the discussion during the debriefing and may or may not have influenced the ratings in favor of the candidate previously known to her.

All three candidates passed the oral interview examination, but on February 12, 2002 the Human Resources Manager, with the approval of, and allegedly under pressure from, the Assistant City Manager, hired the candidate who had previously worked for the Assistant City Manager in another city.

Approximately five months later, in July 2002 the Human Resources Manager recommended extending the probationary period for the new analyst because of her poor performance. Subsequently, the Human Resource Analyst filed a hostile work environment complaint directed against the Human Resources Manager. The Assistant City Manager then hired external investigators on July 22, 2002 to look into the Human Resources Manager's decision to extend the analyst's probation and a second investigation regarding the hostile work environment.

The Human Resources Manager recommended the termination of the analyst to the Assistant City Manager in late November of 2002. The analyst submitted a letter of resignation on December 12, 2002 with the effective date of December 31, 2002. The Human Resources Analyst was still on probation at the time of her resignation.

The Assistant City Manager conducted an exit interview with the analyst in late December, in which the analyst stated that the reason for her resignation was to pursue a different line of work and to go to college.

On January 2, 2003, the Assistant City Manager wrote a memorandum to the Human Resources Manager which stated that the analyst "... will now be working part-time in the Community Development Department." This part-time position changed to a permanent position when the former analyst was hired full time in the Community Development

Department in July 2003.

METHOD OF INVESTIGATION:

The Grand Jury conducted interviews with . . .

- Fred Diaz, City Manager
- Julie Yuan-Miu, Assistant City Manager
- Dan Bilbrey, Mayor
- Brent Ives, Council Member
- Suzanne Tucker, Council Member
- Debra Corbett, City Attorney
- Several current and former employees of the City of Tracy Human Resources Department

The Grand Jury also reviewed . . .

- City of Tracy Personnel Rules and Regulations dated November 1997/May 1, 1998
- City of Tracy Administrative Policies and Procedures dated November 1997
- City of Tracy Municipal Codes
- The City of Tracy's hiring process for the positions of Human Resources Analyst and Community Development Analyst for the past five (5) years, including the following documents:
 - Bid Announcements for the above positions
 - Lists of qualified candidates for the above positions
 - Original Oral Board Examination questions for the position of Human Resources Analyst compiled by Pamela Taconis and validated by the Human Resources Manager.
 - Amended Oral Board Examination questions for the position of Human Resources Analyst as amended by Assistant City Manager
 - City of Tracy Appraisal Interview Rating Sheet for Human Resources Analyst for each candidate including their scores
 - Job applications from each candidate for the position of Human Resources Analyst
 - Selection letters to qualified candidates for the above positions
 - Letters to candidates who were not selected

FINDINGS:

The 2004-2005 Civil Grand Jury finds the following:

1. The Assistant City Manager has wielded her authority over the Human Resources Manager in a way that undermined decisions made in her division.
2. The former Human Resources Analyst, whose work in Human Resources was deemed deficient by the Human Resources Manager, resigned knowing that a position would be made available to her in the Community Development Department. Based on documentation and testimony, it appears that this was accomplished with the knowledge and cooperation of the Assistant City Manager.

3. The City Attorney's Office and the City Manager's Office were non-responsive to numerous requests for specific information. Although we made specific requests, they sent reams of unnecessary material.
4. The Grand Jury finds that the Assistant City Manager displayed what appears to be a marked pattern of favoritism & cronyism, a) by changing the Oral Board Examination questions and tailoring them to favor the candidate with whom she had a previous work relationship, and b) she appears to have engineered the transfer of the analyst to the Community Development Department.
5. There were no improper or unfair employment practices exercised against minorities as alleged in the original complaints.
6. The Assistant City Manager used poor judgment in sitting on the Qualifications Appraisal Board of her former subordinate from another city, and participating in the debriefing process.

RECOMMENDATIONS:

The 2004-2005 Civil Grand Jury recommends the following:

1. The Human Resources Division should be made a Department with its own department head, such as in other cities surveyed. The department should be autonomous from the Assistant City Manager and be on the same level as other departments in the city and have equal authority and power.
2. Paragraph 6.8 of the Policy and Procedural manual is ambiguous in stating the "Qualifications Appraisal Board may be composed entirely of City employees, provided that such persons are neither the appointing authority for the positions being examined, nor are currently the immediate supervisors of a candidate." It is recommended that the policy be clarified so the direct supervisor and/or anyone in the direct line of authority would not sit on the qualifications appraisal board in the hiring of future candidates directly under his/her charge.
3. Those in direct line of supervision and/or the hiring process should recuse themselves from any involvement in the testing process or test preparation when an applicant is known to such person. This will eliminate the perception of cronyism and/or favoritism.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code

The City of Tracy shall respond to the Presiding Judge of the San Joaquin 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 the 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

CASE #0504 SAN JOAQUIN COUNTY REGISTRAR OF VOTERS

REASON FOR INVESTIGATION:

On October 27, 2004, the San Joaquin County Civil Grand Jury toured the Registrar of Voters Office. During our tour the Registrar of Voter officials complained that:

1. They would be unable to use some recently purchased Diebold TSX Touch Screen Voting Machines in the 2004 presidential election.
2. The Registrar's current office space was not large enough to accommodate their needs. When the Grand Jury asked to see the machines, they were told that they were stored off-site at a warehouse.

The Grand Jury agreed to conduct an investigation into why the Touch Screen Machines were not being used, under what conditions these machines were being stored, and whether or not there was sufficient space to provide for the activities of the Registrar of Voters Office.

BACKGROUND:

Registrar of Voters officials provided a detailed overview of the functions and physical aspects of the facilities. Located at 212 N. San Joaquin St. in downtown Stockton, the office has very little space for public voting on election day and no conference room large enough to train, at one time, approximately 250 precinct volunteers who must be trained prior to a General Election. The Registrar of Voters office was preparing for the November 3, 2004 Presidential election using the AccuVote-OS paper ballot voting system instead of the Diebold TSX Touch Screen Voting Machine system, because the machines had been decertified. There is a process in place now to re certify the Voting Machines.

In 2002 the Registrar of Voters purchased 1,625 Diebold TSX Touch Screen Voting Machines at a cost of \$6.5 million. These 25-pound machines are very portable, which makes them easy to handle at the polling places. They can also display voter information, candidate names and propositions in Spanish or English and can be programmed to accept other languages.

METHOD OF INVESTIGATION:

The Grand Jury:

- Toured the warehouse near the Stockton airport where the following items were stored;
 - 1,625 TSX Touch Screen Voting Machines
 - Ballots from previous elections
 - Precinct supplies
 - Scanners for testing the voting machines
- Performed the following on the AccuVote-OS system:
 - Reviewed testing statistics compiled by the Registrar of Voters
 - Reviewed system audit trail and documentation of the same
 - Processed Optical Scan Paper Ballots
 - Witnessed test accuracy results from three precincts in the English and three precincts in the Spanish version
 - Used our own test ballot and verified that the count was accurate
 - Certified and signed the Public Logic and Accuracy Testing as witnesses to its accuracy
- Toured the Registrar of Voters Office and Storage Facility
- Observed the November 2004 Presidential Election vote count
- Conducted interviews with:
 - Deborah Hench, Registrar of Voters
 - Austin Erdman, Assistant Registrar of Voters
 - Edward Cuellar, Regional Director for the Secretary of State
 - Project Manager and Technical Support personnel from Diebold

FINDINGS:

The 2004-2005 Grand Jury finds the following . . .

1. Secretary of State's Office had the grant funds of \$175,000 in January 2004, but did not release them to the Registrar of Voters until September 2004 for the 2004 Presidential Election. The delay resulted in reduced training for precinct personnel.
2. The Grand Jury found the TSX Touch Screen Voting Machines have a built-in printer which produces a hard copy to accurately record vote count information.
3. The Registrar of Voters leases 10,000 square feet of warehouse storage space near the Stockton Airport for \$6,100 per month, which is adequate for its purpose.
4. The present Registrar of Voters Office has insufficient space to accommodate its training, storage, voting and ballot counting functions.
5. The Registrar of Voters stated that the clerical and technical salaries are not within the salary range of other county employees performing similar duties.
6. The Registrar of Voters stated they are short staffed and our observations confirmed during elections that additional staffing is necessary.

RECOMMENDATIONS:

The 2004-2005 San Joaquin County Civil Grand Jury recommends that:

1. The County develop and implement a plan to re certify the Diebold TSX Touch Screen Voting Machines because of the great versatility of the machines and their ability to be programmed to accept other languages. After all, the machines have already been bought and paid for by the taxpayers.
2. The County provide the Registrar of Voters Office a facility large enough to accommodate all its needs.
3. The Registrar of Voters use the County procedure to request additional staffing.
4. The Registrar of Voters submit a request to County Human Resources to conduct a salary survey.

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 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 the 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
CASE #0604 SAN JOAQUIN COUNTY JAIL

REASON FOR INVESTIGATION:

The 2004-2005 Grand Jury chose to review the final report on case #0203, San Joaquin County Sheriff's Department, written by the 2003-2004 Grand Jury. Final report, case #0203 focused on the booking unit and medical unit located at the San Joaquin County Jail. The Sheriff's Department responded to all findings and recommendations in the report. Our goal is to review the report and the written responses from the Sheriff's Department in order to improve the department's policies and procedures and to monitor the department's progress. Our report is not a re-investigation of case #0203, thus the 2004-2005 Grand Jury is not reviewing the actions of the staff present during the incidents involving Mr. Denmon and Mr. Scott.

BACKGROUND:

Arresting officers from various agencies transport arrestees to the County Jail's booking unit. The booking unit is where inmates are received and processed for incarceration. Arrestees are screened for mental and physical impairments, intoxication, and special housing needs. Pre-Booking Officers must complete a computer-generated report for each arrestee.

The Pre-booking Officer must enter the arrestee's responses as given even if the Pre-Booking Officer believes the arrestee is being dishonest. The computer program includes fields where data is entered before continuing to the next screen. The officer can enter his or her observations in one of these fields, though it is not required.

The Pre-Booking Officer directs arrestees needing medical attention to the nurse's station located in the booking unit. The nurse in the booking unit examines the arrestee to determine if the arrestee should be transported to the County Hospital or if the County Jail's medical unit can provide the medical attention needed. The County Jail's medical unit houses inmates with less severe conditions. The medical unit has four observation cells. Each observation cell is equipped with a five-point restraint bed used to immobilize uncooperative inmates. The mattress is approximately 12" above the floor with belts to secure the inmate's wrists, ankles, and waist.

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury focused its investigation on the following:

- Alternative materials for restraint belts
- Positioning of inmates in a five-point restraint system
- Procedures for restraint belt maintenance
- Policy and procedures for restraint belt replacement
- Pre-booking screening questions
- Policies and procedures for a Custody Emergency Response Team (C.E.R.T. team.)

The 2004-2005 Grand Jury's investigation included a review of the following:

- The final report of case #0203 written by the 2003-2004 Grand Jury
- The responses from the Sheriff's Department
- Policies and procedures from the Sheriff's Department
- Video tapes of inmates being restrained

We also interviewed management and staff members of the San Joaquin Sheriff's Department and toured the jail facility including the booking and medical areas.

FINDINGS:

The 2004-2005 Grand Jury finds the following:

1. Procedures are now in place to maintain restraint belts.
2. Alternative belt styles and belt materials are being evaluated.
3. Alternative positions are being used in the five-point restraint bed. Inmates are placed on their backs unless a medical condition exists. A foam wedge is used to elevate the inmate's head. The inmate's hands are secured at the sides of the bed rather than at the upper corners of the bed.
4. Sergeants in command must approve all plans of action.
5. All incidents requiring action by the C.E.R.T. team are being video taped.
6. Additional questions have been added to the pre-book screening process to address possible infection of communicable diseases and drug use.
7. An arrestee's medical history cannot be included in the pre-book process without violating Federal medical privacy rules.

RECOMMENDATIONS:

The 2004-2005 Grand Jury recommends the following:

1. Develop and implement a time schedule for replacing restraint belts.

2. Program the pre-booking screening questionnaire to require a mandatory response in the "Officer's Observation" field. The Pre-Booking Officer should not be allowed to complete the pre-booking screening without entering a response in the "Officer's Observation" field.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Sheriff's Office shall report to the Presiding Judge of the San Joaquin 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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



OFFICE OF
SHERIFF-CORONER
COUNTY OF SAN JOAQUIN

7000 Michael N. Canlis Blvd.
French Camp, California 95231-9781

May 2, 2005

Robert Heidelbach
Sheriff-Coroner
Public Administrator

Filed MAY 11 2005
ROSA JUNQUEIRO, CLERK

By TRISAL MARTINEZ
DEPUTY

Honorable Robert McNatt
Presiding Judge of the Superior Court
222 E. Weber Avenue
Stockton, California 95202

RE: Grand Jury Case #0604 – Sheriff's Department/San Joaquin County Jail

Dear Judge McNatt:

The following is our response to the Civil Grand Jury report, case #0604, Sheriff's Department/San Joaquin County Jail, pursuant to Section 933.05 of the Penal Code.

FINDINGS:

Finding #1: Procedures are now in place to maintain restraint belts.

Response to Finding #1:

The Department agrees with the finding. Procedures for the maintenance of restraint belts were devised as part of a revision to the Correctional Health Care Services Policy and Procedure Manual, Procedure number 607A, which calls for inspection and maintenance of restraint belts by Psych staff every day. Completion of a documentation form is also required.

Finding #2: Alternative belt styles and belt materials are being evaluated.

Response to Finding #2:

The Department agrees in part with the finding. The evaluation of alternative belt styles and materials has now been completed. It was determined that the alternative styles and materials were not conducive to both officer nor inmate safety, thus the Department has continued to use restraints of original design and material, albeit new. The department is still working with the manufacturer on an improved design of the alternative style that will accommodate the Department's needs.

Finding #3: Alternative positions are being used in the five-point restraint bed. Inmates are placed on their backs unless a medical condition exists. A foam wedge is used to elevate the inmate's head. The inmate's hands are secured at the sides of the bed rather than at the upper corners of the bed.

Response to Finding #3:

The Department agrees with the finding. This new procedure is consistent with procedure(s) being used in mental health facilities.

Finding #4: Sergeants in command must approve all plans of action.

Response to Finding #4:

The Department agrees with the finding. Sergeants now are directly supervising the placement of any inmate into five-point restraints.

Finding #5: All incidents requiring action by the C.E.R.T. team are being videotaped.

Response to Finding #5:

The Department agrees with this finding. The videotaping of critical incidents involving the C.E.R.T. team will be used for training purposes to improve techniques and procedures used during those incidents. Additionally, all restraint chair incidents and five-point restraint incidents are videotaped, even if there is no C.E.R.T. team involvement.

Finding #6: Additional questions have been added to the pre-book screening process to address possible infection of communicable diseases and drug use.

Response to Finding #6:

The Department agrees with this finding. These additional screens have been added to the pre-book process to obtain additional and more detailed information about an inmate's condition.

Finding #7: An arrestee's medical history cannot be included in the pre-book process without violating Federal medical privacy rules.

Response to Finding #7:

The Department disagrees with this finding. There is a valid and necessary penological interest in obtaining certain information about an arrestee's medical history in order to provide proper medical care to all inmates in the custody of the Department. Obtaining this medical information is required by Title 15 of the

Honorable Robert McNatt

May 2, 2005

Page 3

California Code of Regulations, Section 1207, and is authorized under the Code of Federal Regulations, Title 45, Section 164.512 (cite: 45CFR1640512).

RECOMMENDATIONS:

Recommendation #1: Develop and implement a time schedule for replacing restraint belts.

Response to Recommendation #1:

The recommendation will not be implemented, with an explanation therefore:

All the restraint belts used by the Department were recently replaced with new equipment. As indicated above, a procedure is already in place for ongoing inspection and maintenance of the restraint belts, which calls for replacement should the belts become discolored or cracked. Implementing an arbitrary "time schedule" for replacing restraints belts would be costly and could cause equipment that is in good working order to be unnecessarily replaced.

Recommendation #2: Program the pre-booking screening questionnaire to require a mandatory response in the "Officer's Observation" field. The Pre-Booking Officer should not be allowed to complete the pre-booking screening without entering a response in the "Officer's Observation" field.

Response to Recommendation #2:

The recommendation has already been implemented, with an explanation therefore:

The pre-booking screening questionnaire has been reprogrammed and the "Officer's Observation" field is now a mandatory field and cannot be over-ridden prior to completion of the screening questionnaire.

Sincerely,



ROBERT HEIDELBACH
Sheriff-Coroner

c: Steven Gutierrez, Chairman, Board of Supervisors
Clerk of the Board
Manuel Lopez, County Administrator



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

FINAL REPORT
CASE #0704 SAN JOAQUIN COUNTY SUBSTANCE ABUSE
SERVICES
(FORMERLY OFFICE OF SUBSTANCE ABUSE)

REASON FOR INVESTIGATION:

The 2003-2004 Grand Jury investigated the Office of Substance Abuse, Case #0303. The 2004-2005 Grand Jury conducted a follow-up investigation of Substance Abuse Services, formerly known as Office of Substance Abuse. Our investigation is a follow-up to the responses from Substance Abuse Services to the recommendations written by the 2003-2004 Grand Jury.

BACKGROUND:

Substance Abuse Services (SAS) provides counseling, treatment, and housing to qualified clients who seek treatment for substance abuse. SAS has a new interim program manager, Francis Hutchins, working under the direction of the new Behavioral Health Department Director, Bruce Hopperstad. Both assumed their positions after the 2003-2004 Grand Jury report was released.

The 2003-2004 Grand Jury's recommendations focused on:

- Centralizing billing of client accounts
- Supervisor and manager training and skill development
- Monitoring employee attendance
- Handling and assisting staff who have substance abuse and related issues
- Evaluation of probationary employees
- Implementing a process to address complaints from staff and clients

SAS responded to the recommendations and has made the following changes:

- SAS has contracted with Tower Systems Company to provide automated billing for two of their programs and will explore the possibility of a contract with Tower Systems Company to expand the billing system to all clients
- SAS has structured mandatory training and mentoring for managers and supervisors and provided training to supervisors, managers, and staff relating to employees with substance abuse concerns
- SAS has installed a time clock machine that requires a fingerprint identification to verify attendance. SAS is requesting funding to purchase an additional 11 time clock machines to place at each of its program sites

- The Human Resources Department is making sure probationary employees are being evaluated on schedule as required by the county's probationary policy
- SAS has designed and implemented a client complaint form
- SAS has designed and implemented a staff complaint hotline
- SAS has assigned a staff member to ensure that the staff is following policies and procedures

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury conducted an interview with Bruce Hopperstad, Behavioral Health Director, and Francis Hutchins, Transitional Leader of Substance Abuse Services.

The Grand Jury reviewed the following:

- The final report written by the 2003-2004 Grand Jury, case #0303
- The responses written by SAS to the findings and recommendations of the 2003-2004 Grand Jury
- Policies and procedures specific to attendance, training, and the complaint process
- The current log of client complaints describing the complaint and the conclusion of the investigation, if warranted
- The current log of staff complaints describing the complaint and the conclusion of the investigation, if warranted
- Training requirements of staff, supervisors, and managers

FINDINGS:

The 2004-2005 Grand Jury finds:

1. SAS is making great effort to comply with and enforce all its current policies and procedures in contrast to the practice prior to the 2003-2004 Grand Jury's Final Report. Furthermore, SAS has implemented or is progressing to implement the recommendations of the 2003-2004 Grand Jury.

RECOMMENDATIONS:

The 2004-2005 Grand Jury has no further recommendations but encourages SAS to continue its endeavor to obtain time clock machines for all program sites.

RESPONSE REQUIRED:

None.



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FINAL REPORT
CASE #0804 SAN JOAQUIN GENERAL HOSPITAL

REASON FOR INVESTIGATION

The 2003-2004 San Joaquin County Civil Grand Jury investigated the San Joaquin General Hospital regarding contracting outside companies that provide in home health and infusion therapy services. The original complaint alleged that the hospital was not following its own procurement policy. The 2003-2004 Grand Jury found that the County Hospital was signing contracts with several businesses to provide in home health and infusion therapy services, but the hospital did not have a written procurement policy. The 2003-2004 Grand Jury recommended that the County Hospital establish such a policy. Our report is a follow-up to this recommendation.

BACKGROUND

The recommendation made by the 2003-2004 Grand Jury in report #0403 was as follows...

1. The Grand Jury recommends that the San Joaquin County Board of Supervisors direct the County Hospital to establish a procurement policy for home health services to reflect the award of services to home health providers in an objective manner consistent with fairness and prudent cost to the county.

METHOD OF INVESTIGATION

The 2004-2005 Grand Jury reviewed the newly created procurement policy and interviewed Richard Aldred, Interim Hospital Director.

FINDINGS

1. The recommendation to create a procurement policy for contracted health and infusion therapy services has been implemented.
2. San Joaquin General Hospital has established a list of qualified, bidding companies that offer in-home services.

RECOMMENDATIONS

The 2004-2005 Grand Jury has no further recommendations.

RESPONSE REQUIRED

No response is required.



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FINAL REPORT
CASE #1004 TRACY UNIFIED SCHOOL DISTRICT

REASON FOR INVESTIGATION

The 2004-2005 Grand Jury chose to review the final report written by the 2003-2004 Grand Jury (Tracy Unified School District, Case #0603). The report focused on the TUSD Board Policy #5144 "Suspension and Expulsion/Due Process". The goal of our investigation is to make certain that TUSD has implemented the changes to the policies and procedures that TUSD committed to in their response to the 2003-2004 Grand Jury report. Our report is not a re-investigation of the suspension process.

BACKGROUND

The 2004-2005 Grand Jury received the TUSD responses to the findings and recommendations of the 2003-2004 Grand Jury. The 2004-2005 Grand Jury felt security screening was the only matter that needed further scrutiny because several members of the 2003-2004 Grand Jury had visited Tracy High School during its investigation, and they had entered the campus without being screened by security personnel.

METHOD OF INVESTIGATION

The 2004-2005 Grand Jury interviewed the TUSD Director of Student Services, Rebecca Frame. The Grand Jury reviewed the security policy regarding visitors on campus.

FINDINGS

1. TUSD is complying with current education codes.
2. TUSD is citing education codes in their entirety in accordance with the recommendation from the 2003-2004 Grand Jury.
3. TUSD has created a new security policy. This policy requires security personnel to direct all visitors to the administrative offices.

RECOMMENDATIONS

The 2004-2005 Grand Jury has no further recommendations.

RESPONSE REQUIRED

No response is required.



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FINAL REPORT
CASE #1104 SAN JOAQUIN COUNTY ENVIRONMENTAL HEALTH

REASON FOR INVESTIGATION

The 2004-2005 Grand Jury chose to review the final report of the San Joaquin County Environmental Health Department, Case #1202, written by the 2003-2004 Civil Grand Jury. The original complaint alleged that the department refused to enforce codes and ordinances for waste management, noise, odor control, and lighting. The 2003-2004 Grand Jury found that Environmental Health was enforcing their codes and ordinances, but they also found that the multiple complaints they received concerning any common issue were not being processed in an organized manner. Our report is a follow-up to the recommendations made by the 2003-2004 Grand Jury and to the responses of Environmental Health.

BACKGROUND

The recommendations made by the 2003-2004 Grand Jury in case #1202 were as follows:

1. *Environmental Health Department require dairies submit a Vector Control Plan for review and acceptance. The Vector Control Plan and contracted service invoices should be made available upon request to Environmental Health.*
2. *Environmental Health amend the Complaint Abatement Policy to reflect that multiple complaints be reported to the Supervisor and Director of Environmental Health, when received, for their review and investigation.*
3. *Environmental Health require dairies to submit a written five year solid waste plan for review and acceptance.*

METHOD OF INVESTIGATION

The 2004-2005 Grand Jury reviewed the policies and procedures regarding the following:

- Vector control
- Solid waste management
- Dairy inspection
- Processing complaints

The Grand Jury also interviewed Donna Heran, Registered Environmental Health Director and Linda Turkatte, Lead Senior Registered Environmental Health Specialist.

FINDINGS

1. The recommendation to require dairies to submit a vector control plan for review and acceptance has been implemented.
2. Environmental Health has implemented the recommendation to modify the complaint policy so that it will assure that multiple complaints are reported to a supervisor and to the director.
3. The recommendation to require dairies to submit a written five-year plan for solid waste management has been implemented.

RECOMMENDATIONS

The 2004-2005 Grand Jury has no further recommendations.

RESPONSE REQUIRED

No response is required.



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FINAL REPORT
CASE #1204 SAN JOAQUIN COUNTY HOUSING AUTHORITY

REASON FOR INVESTIGATION:

The 2003-2004 Grand Jury's investigation into San Joaquin County Housing Authority, case #1402, stemmed from a complaint alleging misconduct by the Executive Director to include improper hiring practices, retaliation against employees, creating positions without the Board's approval, and misuse of Housing Authority funds. The 2003-2004 Grand Jury also examined the operation of the Housing Authority, including the executive staff and the Housing Authority Board of Commissioners.

Our investigation is a follow-up to the recommendations written by the 2003-2004 Grand Jury and to the responses submitted by the Housing Authority. Our report is not a re-investigation of the complaint received by the 2003-2004 Grand Jury.

BACKGROUND:

The Housing Authority provides housing for low-income families with rents subsidized by Federal funds. The Housing Authority also owns property that is rented to low-income tenants, and it purchases properties to sell to qualifying low-income families.

The Housing Authority is a public corporation employing approximately 90 employees. The County Supervisors appoint a seven member Board of Commissioners to govern the organization. The Board of Commissioners employs an Executive Director to run the day-to-day operations of the Housing Authority.

The 2003-2004 Grand Jury found the Executive Director misused the Housing Authority's credit card and recommended a more precise policy be established to prevent the abuse or appearance of abuse of the credit card system.

The 2003-2004 Grand Jury also discovered that the Housing Authority purchased a software program for approximately \$700,000 to replace an existing, older software program, but the new software was not being used, and the old program had been put back into use. The 2003-2004 Grand Jury recommended that the Housing Authority attempt to recoup the money wasted for the new software program.

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury interviewed Ed Sido, the recently appointed Executive Director of the Housing Authority and Keith Land, Chairperson of the Board of Commissioners for the Housing Authority. The 2004-2005 Grand Jury also visited the Housing Authority's administration building to interview a cross section of the employees to verify a response to the 2003-2004 Grand Jury report submitted by the Housing Authority, which stated that the low morale of the staff was, in part, the result of the 2003-2004 Grand Jury's investigation of the Housing Authority.

We also reviewed...

- The Final Report, Case #1402, written by the 2003-2004 Grand Jury
- The Housing Authority's responses to that report
- Past audits of the Housing Authority
- Housing Authority's policy and procedure manuals

FINDINGS:

1. The low morale of employees related directly to a lack of trust in the previous executive staff and had nothing to do with the 2003-2004 Grand Jury visit contrary to the responses from the Housing Authority. The employees did not know that the 2003-2004 Grand Jury was investigating the Housing Authority.
2. Morale has improved greatly now that most of the people on the previous
3. executive staff have left the organization.
4. Most employees feel the main cause of low morale today is the result of union contract negotiations with the Housing Authority.
5. The Housing Authority has re-written its policy regarding credit card use.
6. The Housing Authority has changed the type of credit card to reduce the possibility for abuse.
7. In regard to grievance procedures, about half of the employees surveyed believe they could not air grievances before the Board of Commissioners without fear of retaliation because the Executive Director is normally present at all Board meetings.
8. The Housing Authority has not been compensated for the \$700,000 software program that did not work and is not being used.
9. The Housing Authority has created a Code of Ethics Policy.

RECOMMENDATIONS:

The 2004-2005 Grand Jury recommends...

1. The Board of Commissioners create a policy and procedure to hear grievances from staff members in a closed session excluding executive staff and management.
2. The Board of Commissioners interact more with employees to understand their needs and concerns.
3. Housing Authority develop and implement a plan of action to be compensated for the purchase of the software program that is not being used.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors and the Board of Commissioners of San Joaquin Housing Authority shall report to the Presiding Judge of the San Joaquin 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 the 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
CASE #1304 SAN JOAQUIN COUNTY DISTRICT ATTORNEY
(OFFICE SPACE ON THE FIFTH FLOOR)

REASON FOR INVESTIGATION:

The San Joaquin County District Attorney occupies space on the second, fourth, and fifth floors of the San Joaquin County Court House. The District Attorney does not use the fifth floor space to its full extent only because it is mostly unfurnished. We conducted our investigation to determine why the newly constructed space is not fully furnished.

BACKGROUND:

San Joaquin County has historically provided the District Attorney with the necessary space needed to operate because it is a court-associated agency. The District Attorney employs about 130 staff members spread out on various floors of the Court House. The District Attorney planned to use the fifth floor to provide 50 up-to-date office spaces, but only seventeen of these offices are currently occupied, and they are furnished with leased furniture.

The original plan was designed in 1993. Construction started in 1996 but events caused delays and halted construction several times. Construction was finally completed in November of 2003.

The initial plan for the office space evolved over the years to account for different floor designs, materials, security needs, public access, and other unforeseen problems. The original plan did not include the purchase of new furniture because they intended to use the furniture on the second floor to furnish the fifth floor. The furniture on the second floor is now outdated and is not appropriate for today's office environment because it was not designed to include computer workstations.

The District Attorney has informed the Grand Jury that the normal process to obtain furniture is as follows . . .

1. The District Attorney submits a request for furniture to the Facilities Management Department.
2. The Facilities Management Department analyzes the request, making recommendations as needed, and submits the information to the County Administrator.
3. The County Administrator submits the request with a cost analysis to the County Board of Supervisors with recommendations to approve or disapprove the request.
4. The Board of Supervisors vote to approve or disapprove the request for funding.

The District Attorney has followed this process the past three years. The County Administrator has recommended against the District Attorney's request to furnish the fifth floor for the 2003-2004 budget and again for the 2004-2005 budget. The County Board of Supervisors voted, and the request was denied on both occasions.

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury has toured the District Attorney office space on the second, fourth, and fifth floors several times and visited the warehouse at the Stockton Airport where the old furniture is stored.

The Grand Jury has reviewed documents including requests for furniture and recommendations, for and against, furnishing the fifth floor.

The Grand Jury interviewed . . .

- County Administrator, Manual Lopez
- Director of Facilities Management, Craig Ogata
- Management Services Administrator for the District Attorney's Office, Harold Crosby
- District Attorney, Jim Willett

FINDINGS:

The 2004-2005 Grand Jury finds the following...

1. The District Attorney is not using all of the office spaces on the newly constructed fifth floor simply because the offices are unfurnished.
2. The office space on the second floor is in poor condition and the configuration is unsuitable for today's office environment. The carpet is dingy, and the furniture is outdated and unsuitable for computer workstations.
3. The District Attorney is currently operating in limited space. Even closets have been converted into small offices.
4. Construction of the fifth floor is not truly complete until it has been furnished.
5. The furniture and computers stored in the warehouse at the Stockton Airport are of little value to the county.
6. The Board of Supervisors has authorized the request for furniture on May 3, 2005.

RECOMMENDATIONS:

1. The 2004-2005 Grand Jury recommends that San Joaquin County dispose of all worthless furniture, computers, and other equipment stored at the warehouse at the Stockton Airport.
2. The 2004-2005 Grand Jury recommends that the County continue to support the District Attorney's Office by adequately furnishing the fifth floor and make the best use of the County's investment.

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 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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Staff and witnesses use this entrance to the District Attorney's Office on the 2nd floor of the courthouse.



This is a typical office on the 2nd floor of the courthouse. The space is inefficient and uses old furniture as computer workstations.



The old furniture is not appropriate to use as a computer work station.



Computers "stored" at the airport warehouse.



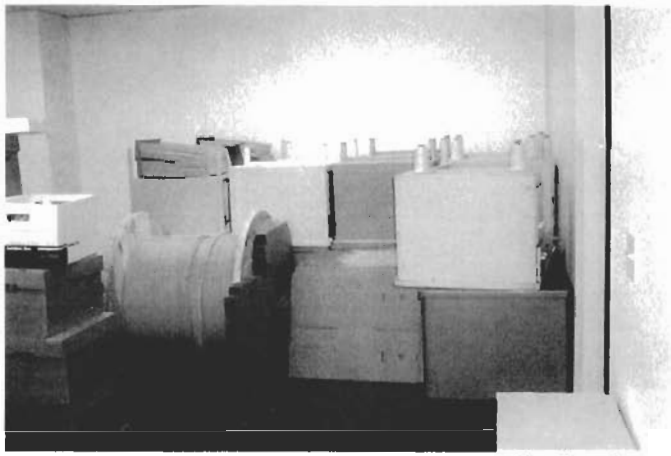
This is another example of an office on the 2nd floor.



This is some of the furniture stored at the airport warehouse.



This is a new office on the 5th floor furnished with an old desk which was not designed to be a computer work station.



The District Attorney attempted to use the furniture from the airport warehouse but removed it the same day because it would not suffice.



Most offices of the 5th floor are empty.



Some offices on the 5th floor are being used for storage.

4. The City of Stockton, with justification from the former Interim City Attorney and the City Auditor, may be charging more than the cost to provide service for combination and plan checking fees. This has allowed the City of Stockton to use the Building Division as a source of revenue and may violate California Health and Safety Code §17951 and California Government Code §66014.
5. The Grand Jury finds that the actual cost to provide service for the Building Division has not been determined. The actual cost to provide service must include the Building Division's budget in addition to other support costs provided by other city departments.

RECOMMENDATIONS:

The Grand Jury recommends the following . . .

1. The Grand Jury recommends that the City of Stockton use funds from the Building Division's surplus to conduct an audit to determine the actual cost to provide service. The cost to provide service should be used to estimate the fees for building permits and plan checking.
2. Combination permits and plan check fees be re-adjusted to a level that is justified by the cost to provide the service as required by law.
3. The City of Stockton use the surplus generated by the Building Division to satisfy the Building Division's needs before transferring excess funds to the General Fund.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The City of Stockton shall report to the Presiding Judge of the San Joaquin 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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

COMMUNITY DEVELOPMENT - BUILDING

SCHEDULE OF FEES
EFFECTIVE JULY 1, 2001
FULL COST RECOVERY/POLICY (FP)

COMBINATION CONSTRUCTION PERMIT FEES (CCPF)
(Includes Plumbing, Electrical and Mechanical Permit Fees)

NO CHANGES PROPOSED

<u>ACCOUNT NUMBER</u>	<u>PAY CODE</u>	<u>TOTAL VALUATION</u>	<u>CURRENT FEE</u>	<u>BUILDING PLAN CHECK FEE</u>	<u>BLDG. MECH. ELEC. PLAN CHECK FEES</u>
010-1830-323.01-00	2L	\$1 to \$500	\$36	-0-	-0-
010-1830-323.01-00	2L	\$501 to \$2,000	\$36 for the first \$500, plus \$4.80 for each additional \$100 or fraction thereof, to and including \$2,000	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$2,001 to \$25,000	\$108 for the first \$2,000 plus \$21.60 for each additional \$1,000 or fraction thereof, to and including \$25,000	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$25,001 to \$50,000	\$604.80 for the first \$25,000 plus \$15.60 for each additional \$1,000 or fraction thereof, to and including \$50,000	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$50,001 to \$100,000	\$994.80 for the first \$50,000 plus \$10.80 for each additional \$1,000 or fraction thereof, to and including \$100,000	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$100,001 to \$500,000	\$1,534.80 for the first \$100,000 plus \$8.40 for each additional \$1,000 or fraction thereof	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$500,001 to \$1,000,000	\$4,894.00 for the first \$500,000 plus \$7.20 for each additional \$1,000 or fraction thereof, to and including \$1,000,000.	27% CCPF	15% CCPF
010-1830-323.01-00	2L	\$1,000,001 and up	\$8,494.80 for the first \$1,000,000 plus \$8.40 for each additional \$1,000 or fraction thereof	27% CCPF	15% CCPF

Fees are established to conform with those appearing in 2-8 of Title 24, California Administrative Code.

NOTES: 50% of the Building Plan Check fee is allowed for structural plan review. In the event the actual cost of the structural review exceeds the allowance, the difference plus 15% for administration shall be paid by the applicant prior to the issuance of the Combination Permit fee.

In event that the actual cost of any portion of the plumbing, mechanical or electrical plan check exceeds the allowance for this service, due to complexity of the submittal, the difference plus 15% for administration, shall be paid by the applicant prior to the issuance of the Combination Construction Permit.

NUMBER OF PERMITS ISSUED FOR NEW SINGLE-FAMILY STRUCTURES

FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR
1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
1038	1139	823	991	1234	2628	1912	1605	2984	2926

REVENUE GENERATED FROM PERMITS ISSUED FOR NEW SINGLE-FAMILY STRUCTURES

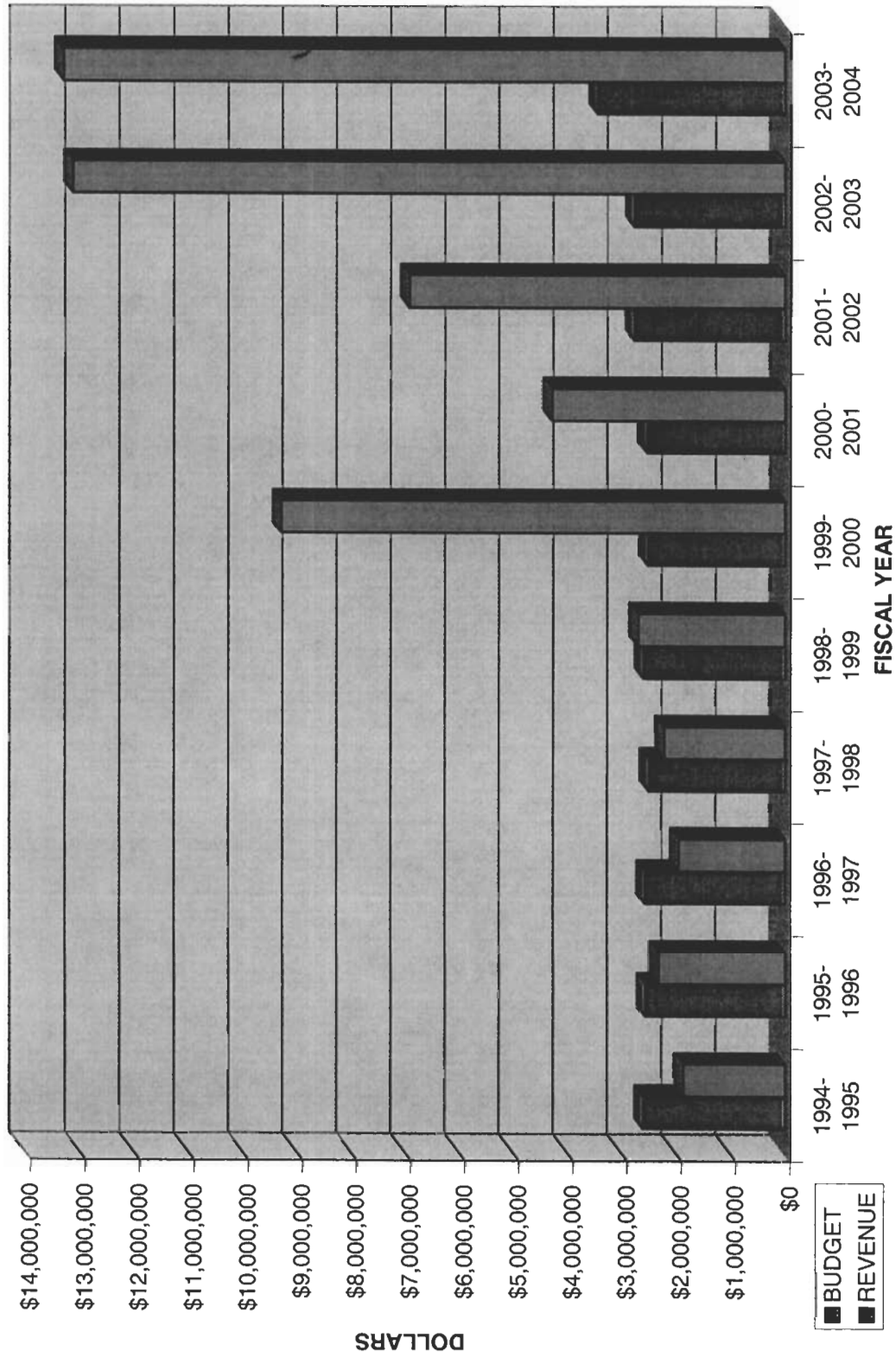
FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR
1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
\$954,707	\$1,053,842	\$808,264	\$1,009,269	\$1,367,986	\$2,059,651	\$2,539,676	\$4,079,832	\$9,053,459	\$9,839,024

AVERAGE PRICE PER PERMIT FOR NEW SINGLE-FAMILY STRUCTURES

FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR	FISCAL YEAR
1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
\$919	\$925	\$982	\$1,018	\$1,108	\$783	\$1,328	\$2,542	\$3,034	\$3,362

Increases in the average price per permit for new single-family structures are partly due to rising house size and increases in valuation.

BUILDING DIVISION BUDGET AND REVENUE (PAST TEN FISCAL YEARS)



AGENCIES AND SITES TOURED BY THE 2004-2005 CIVIL GRAND JURY

San Joaquin County Agencies

- Mary Graham Children's Shelter
 - San Joaquin County Human Resources Department
 - San Joaquin County Assessor, Recorder-County Clerk's Office
 - San Joaquin County Human Services Department
 - San Joaquin County Auditor
 - San Joaquin County Jail
 - San Joaquin County Honor Farm
 - San Joaquin County Morgue
 - San Joaquin County Child Support Service
 - San Joaquin County Juvenile Probation and Protection
 - San Joaquin County Registrar of Voters;
- The Grand Jury certified the voting machines and observed the events of election night, November 4, 2004.

City of Stockton

- Stockton Police Department
- Stockton Fire Department
- Port of Stockton;

TOP FIVE EXPORTS		TOP FIVE IMPORTS	
COMMODITY	TONNAGE	COMMODITY	TONNAGE
Sulphur	263,815	Cement	1,102,051
Bagged Rice	153,411	Liquid/Dry Fertilizer	386,966
Wheat	107,446	Molasses	211,748
Scrap Steel	30,310	Anhydrous Ammonia	210,485
Bulk Rice	15,900	Steel Products	70,818

City of Lodi

- Lodi Police Department

City of Tracy

- Tracy Police Department
- Tracy Fire Department

City of Manteca

- Manteca Police Department
- Manteca Fire Department

California State Penal Institutions

- California Youth Authority
- DVI



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FINAL REPORT CASE #1404
GARFIELD ELEMENTARY SCHOOL

REASON FOR INVESTIGATION:

The 2002-2003 Grand Jury investigated Garfield Elementary School after receiving a complaint alleging misappropriation of student body funds. Our investigation is a follow-up to Stockton Unified School District's responses to the final report (case #0902) of by the 2002-2003 Grand Jury.

BACKGROUND:

Garfield Elementary School's student body was raising funds by selling snacks. The principal or designee monitors the account as directed by the School Board's policy. The fund was designed to provide the largest possible educational return to students. The 2002-2003 Grand Jury reported no evidence of misappropriation of funds but it did recommend that two people monitor the funds to ensure accuracy in accounting.

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury visited Garfield Elementary School to assess the student activity fund program and interviewed the school's new principal, assistant principal, and the school secretary.

The 2004-2005 Grand Jury also reviewed the final report of the 2002-2003 Grand Jury and the responses to that report submitted by Stockton Unified School District.

FINDINGS:

1. The 2004-2005 Grand Jury found that Garfield Elementary School's new principal had decided that student activity fund raising is not a priority and has terminated the activity.
2. Garfield Elementary School is following its policies and procedures in regard to accounting for funds.

RECOMMENDATIONS:

The 2004-2005 Grand Jury has no further recommendations.

RESPONSE REQUIRED:

None.



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FINAL REPORT
CASE #1504 CITY OF STOCKTON
HUMAN RESOURCES

REASON FOR INVESTIGATION:

- A. The Civil Grand Jury received a complaint alleging that the City of Stockton was paying medical benefits for the Director of the Asparagus Festival, a position that is not associated with the City of Stockton.
- B. The Civil Grand Jury heard testimony that the city of Stockton had paid medical benefits to the "spouse" of a city employee who could not furnish proof of her marriage and was, therefore, not eligible to receive benefits. The witness further alleged that the city of Stockton had taken no steps to recoup this money.
- C. The Grand Jury also heard testimony alleging that the city paid an unusually high salary to the Assistant to the City Manager. The witness also alleged that the person filling the position of Assistant to the City Manager had not met the educational requirements.

BACKGROUND:

With respect to "A" above, the Asparagus Festival Organization is not associated with the City of Stockton and the organization's employees are not qualified to receive benefits from the City of Stockton Employee Medical Plan.

With respect to "B" above, a person who is a current city employee, a spouse of an employee, a retired employee, or a dependent of an employee may be eligible to receive benefits from the City of Stockton Employee Medical Plan. An addition or deletion of a recipient requires documentation of eligibility or disqualification; for example, a marriage or divorce document, or a birth certificate. The employee in question declared that he was married, but he did not provide a marriage certificate to prove his partner was eligible to receive benefits.

With respect to "C" above, a survey must be presented to and approved by the city council in order to create a new position or to re-classify an existing position. A survey includes the job description, duties, responsibilities, educational requirements, and a comparative analysis of salaries of similar positions within the city.

Stockton City Council Resolution 03-0301, item 11d reads the City of Stockton does "Authorize the City Manager to make salary adjustments in classifications to ensure comparability with similar classifications, as determined by a classification review and to incorporate changes into the Salary Schedule, as appropriate. Authorize cost of living

adjustments for all city management, including the City Manager equal to other city employees.” The survey presented to the city council specifies the position of Assistant to the City Manager will have responsibilities comparable to and a salary equal to the Parks and Recreation Director, which ranges from \$95,964 to \$123,168, but the survey does not specify that an applicant meet the same work experience and educational requirements as department heads.

The following are the educational and work experience requirements for the positions listed in the study:

- The Parks and Recreation Director is required to have six years of related work experience **and** a four year degree.
- The Assistant to the City Manager is required to have a four year degree or major course work in business administration or related field. Experience may be substituted for education on a year-for-year basis to a maximum of two years.

METHOD OF INVESTIGATION:

The Grand Jury reviewed the City of Stockton’s employment procedures and an internal audit report of the employee benefit policy. We also reviewed the minimum requirements and job descriptions for various positions in the city of Stockton and the survey submitted to the City Council for the Assistant to the City Manager position.

We interviewed Mayor Ed Chavez, City of Stockton Councilman Bestolarides, the former City Manager Dwayne Milnes, and other city personnel.

FINDINGS:

- 1) With regard to allegation “A”, the position of Director of the Asparagus Festival is not associated with the City of Stockton and it’s director did not receive benefits from the City of Stockton Employee Medical Plan as alleged.
- 2) With regards to issue “B”, the employee in question did not provide documentation of his spouse’s eligibility, and in January of 2004 he agreed to pay back \$5,960.51 of invalid claims with repayment deferred until May 20, 2005.
- 3) With regard to issue “C”,
 - a) Although a bachelor’s degree is not specified by regulation as a prerequisite for the position of Assistant to the City Manager, the employee whom the city manager promoted to this position had not qualified for two previous positions held in the Stockton city government because each had required a four year college degree.
 - b) The survey for the Assistant to the City Manager position did not include an analysis of the salary range for similar positions within the city.

RECOMMENDATIONS:

With regard to issue A, the Grand jury has no recommendations

With regard to issue B, the Grand Jury has no recommendations.

1. With regard to issue C, the Grand Jury recommends that:
 - a. The work experience and educational requirements for the position of Assistant to the City Manager be amended to be comparable to that of the Economic Development Director and the Parks and Recreation Director because the salary and responsibilities are already equivalent.
 - b. The City of Stockton require future applicants to meet all job qualifications before appointing them to a position with the City of Stockton.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The City of Stockton shall report to the Presiding Judge of the San Joaquin 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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



CITY OF STOCKTON
Revision Date: Nov 17, 2004

Assistant to the City Manager

Class Code:
01114

SALARY RANGE

\$46.14 - \$59.22
Hourly

\$7,997.00 - \$10,264.00
Monthly

\$95,964.00 - \$123,168.00
Annually

DEFINITION:

Under administrative direction of the City Manager, plans, organizes, coordinates, and provides administrative support on a wide variety of complex issues; represents the City and fosters cooperative working relationships with civic groups, intergovernmental agencies, and City staff; performs related work as assigned.

CLASS CHARACTERISTICS:

This is a single position management level class assigned to the City Manager's office. The incumbent is responsible for participating in and supervising the development of administrative and operational policies and methods. Under direction of the City Manager, is responsible for a wide variety of special projects, studies, interdepartmental activities, and administrative support. Serves as staff to ad hoc and Council committees and task forces.

PRINCIPAL DUTIES (ILLUSTRATIVE ONLY):

1. Assists in the development and implementation of City goals, objectives, policies and procedures.
2. Plans, organizes, supervises and coordinates the implementation of programs and projects.
3. Supervises staff, planning, assigning, reviewing and evaluating work; participates in the selection of staff and provides for their training and professional development.
4. Prepares a variety of periodic progress and special reports related to programs and activities.
5. May serve as a staff member to a variety of committees and commissions.
6. Assists in preparing recommendations for annual grant and program budgets; provides input for and prepares various grant applications and annual performance reports of activities.
7. Provides staff leadership and technical assistance to citizen advisory committees, task forces, commissions, boards, or the City Council; confers with and provides professional assistance to City departments.
8. Confers and negotiates with developers and property owners relative to the acquisition and disposition of property and improvements; may draft project contract language and performance specifications.

9. Represents the City in meetings with representatives of governmental agencies, professional, business and community organizations and the public.
10. Monitors legislation and developments related to areas of responsibility; evaluates their impact on City operations and programs and recommends and implements policy and procedural improvements as directed by the City Manager.
11. Provides general assistance to the City Manager on a variety of programs and projects as assigned.
12. Provides leadership in managing City Council agenda process.
13. Coordinates staff work and presentations during City Council meetings.
14. Responsible to City Manager for Council follow up.

MINIMUM QUALIFICATIONS:

Possession of a Bachelor's degree from an accredited college or university with major course work in business, public administration or a closely related field. Experience may be substituted for education on a year-for-year basis to a maximum of two (2) years.

Other Requirements:

Must possess a valid California Class C driver's license. Must be willing to attend meetings outside of normal working hours.

Knowledge of:

- Developing program monitoring and evaluation techniques;
- Administrative principles and practices, including budgeting, goals and objectives development, work planning and employee supervision;
- Principles of grant application and proposal preparation and grant monitoring and reporting techniques;
- Business computer use applications; and
- Basic supervisory principles and practices

Skill in:

- Planning, organizing, assigning, reviewing, evaluating and directing the work of assigned staff;
- Organizing work setting priorities, establishing goals and objectives, and exercising sound, independent judgment within established guidelines;
- Establishing and maintaining cooperative working relationships with those contacted in the course of the work;
- Preparing clear and concise reports, correspondence and other written materials;
- Analyzing complex issues and problems, evaluating alternatives and recommending practical solutions;
- Organizing and preparing effective grant applications and proposals;

- Representing the City in meetings with public agencies and others outside the City;
- Interpreting and applying complex rules, regulations, laws and ordinances;
- Exercising sound independent judgment within established guidelines;
- Making persuasive oral presentations of ideas and recommendations;
- Preparing, administering and monitoring grant and program budgets;
- Providing technical assistance and staff leadership to boards, commissions, and the City Council.

HISTORICAL NOTE:

Established: 5/6/03

Resolution: CC03-0226

Excluded: 5/6/03

Resolution: CC03-0226

Spec Adopted: 5/6/03

Resolution: CC03-0226

Unit: Unrep



CITY OF STOCKTON
Revision Date: Nov 8, 2004

Economic Development Director

Class Code:
01172

SALARY RANGE

\$46.14 - \$59.22
Hourly

\$7,997.00 - \$10,264.00
Monthly

\$95,964.00 - \$123,168.00
Annually

DEFINITION:

Under administrative direction of a Deputy City Manager, provides leadership and coordination of the City of Stockton Enterprise Zone; will be responsible for promotion, operation, and facilitating all relocation and expansion projects, supervises staff of the Economic Development Division of the City Manager's Office; performs related work as assigned.

CLASS CHARACTERISTICS:

This single position class acts as a contact and liaison point in the City Manager's office regarding Enterprise Zone activities. The incumbent will be the key contact for all City's Staff working on each location team and for all companies and will give them guidance throughout the whole location or expansion project. This position is distinguished from the Deputy City Manager II class in that the latter has broad responsibility for all Economic Development and related activities.

PRINCIPAL DUTIES (ILLUSTRATIVE ONLY):

1. Administers the Enterprise Zone program, including outreach, referrals, tracking and reporting focusing business attention and marketing activities to commercial and professional business, particularly for the downtown core and waterfront.
2. Coordinates with the Redevelopment Agency targeted recruitment efforts for the downtown/waterfront area and industrial land in other development areas.
3. Assists the San Joaquin Partnership in attracting industry.
4. Acts as liaison to other city/county department, regional agencies, state/federal agencies, and local organizations on matters relating to the zone.
5. Meeting with Zone Coordinators, assesses the needs of existing business to develop Zone programs for implementation.
6. Acts as lead on proposed and referred project developments, answers development questions, handles issues; tracks and responds to project proponents.
7. Determines entities and/or representatives to be included in technical team meetings to review specific proposed projects. Schedules and invites representatives to meetings.
8. Reviews, on a weekly basis, with Development Coordinator, all projects in the "hopper."
9. Coordinates the sequence of all inspections, for near complete projects, in order to minimize delays to business.

10. Coordinates and assists other agencies to secure grants and/or funding for infrastructure development.
11. Serves as staff to the Management Team.
12. Evaluates zone success and prepares an annual report for public distribution.

MINIMUM QUALIFICATIONS:

Knowledge of:

- Principles, practices and techniques related to economic development, business financing, employment development and related programs;
- Programs and methods of improving the economic development climate within the City;
- Federal, state and local ordinances, policies and procedures related to the work;
- Basic administrative, and budgetary principles and practices;
- Principles and techniques of public information dissemination and media relations;
- Functions and organizations of a municipal government;
- Application of land use, physical design, economic, environmental and/or social concepts to the planning process.

Skill in:

- Developing, implementing and evaluating complex economic development programs, related to such areas as business development, real estate development and employment development;
- Coordinating and providing liaison among various agencies and organizations;
- Organizing work, setting priorities and exercising sound independent judgment within established guidelines;
- Interpreting and applying complex rules, regulations, laws and ordinances;
- Making persuasive oral presentations;
- Maintaining accurate records and preparing clear, concise and effective correspondence, media materials, public and educational materials, reports and other written materials;
- Providing technical assistance and staff leadership to various boards and commissions;
- Establishing and maintaining effective working relationships with those encountered in the course of the work.

Other Requirements:

Must possess a valid California Class C Driver's License.

A typical way of gaining the knowledge and skills outlined above is:

Equivalent to graduation from a four year college or university with major coursework in business or public administration, economics, urban planning or a closely related field and four years of professional level experience in economic or business development activities.

HISTORICAL NOTE:

Established: 12/14/92
Resolution: CC92-0729
Exempted: 9/26/95
Resolution: CC95-0301
Title Changed: 5/28/02
Resolution: CC02-0329

Formerly Economic Development/ Enterprise Zone Manager and
Enterprise Zone Manager



CITY OF STOCKTON
Revision Date: Nov 8, 2004

Parks and Recreation Director

Class Code:
01055

SALARY RANGE

\$46.14 - \$59.22
Hourly

\$7,997.00 - \$10,264.00
Monthly

\$95,964.00 - \$123,168.00
Annually

DEFINITION:

Under administrative direction, plans, organizes and directs the City's Parks and Recreation Department; provides expert professional assistance to City staff and the public in area of responsibility; performs related work as assigned.

CLASS CHARACTERISTICS:

This single position class has department head level responsibility for overall policy development, program planning, fiscal management, administration and operation of the City's parks and recreation programs and facilities, including golf courses. The incumbent is responsible for accomplishing departmental goals and objectives, supervising staff, administering the budget and directing the operations and activities of the Parks and Recreation Department. Assignments allow for a high degree of administrative direction in their execution.

PRINCIPAL DUTIES (ILLUSTRATIVE ONLY):

1. Develops and directs the implementation of goals, objectives, policies, procedures and work standards for the Parks and Recreation Department; prepares and administers the department's budget.
2. Works closely with the City Manager, other City departments, a variety of public and private organizations, and citizen groups in developing programs and implementing projects to solve problems related to the Parks and Recreation Department; advises the City Manager and City Council on related issues and programs.
3. Prepares and recommends long-range plans for City parks and recreation services and programs; develops specific proposals for action on current and future City parks and recreation needs; negotiates and administers departmental contracts.
4. Makes interpretations of City regulations and various ordinances, codes and applicable laws to ensure compliance.
5. Represents the City and works closely with citizen boards and commissions and public and private officials to provide technical assistance, directly or through subordinate staff.
6. Coordinates the preparation of a variety of reports or presentations for City management or outside agencies; administers and supervises the department's management and supervisory staff; directs the supervision and the work evaluation of departmental personnel; monitors and directs employee relations and grievance procedures; provides for staff development and supervisory training programs.
7. Directs the development of management systems, procedures and standards for program evaluation.

8. Monitors developments related to delegated service area; evaluates their impact on City operations and implements policy and procedure improvements.
9. Recommends fee schedules and implements procedures for collection of such fees.
10. Directs the maintenance and improvement of parks; reviews and coordinates construction plans for the department.
11. Directs the maintenance of City trees, both in streets and in landscaped areas.
12. Provides leadership in staff development; sets standards for departmental staff performance; manages staff resources for most efficient and effective results.
13. Directs staff participation in customer service and quality service.

MINIMUM QUALIFICATIONS:

Knowledge of:

- Administrative principles and methods, including goal setting, program and budget development and implementation and employee supervision;
- Principles, practices and programs related to municipal parks and recreation, including parks and golf course maintenance;
- Applicable city, state and federal law guidelines and standards affecting the administration of parks and recreation programs and projects;
- Principles and practices of budget development and administration;
- Funding sources impacting program and service development;
- Principles and practices of contract administration and evaluation;
- Principles and practices of computer applications.

Skill in:

- Planning, organizing, administering and coordinating a variety of large and complex parks and recreation services, programs and maintenance activities;
- Planning, organizing, assigning, directing and reviewing the work of staff;
- Selecting, motivating and evaluating staff and providing for their training and professional development;
- Developing and implementing goals, objectives, policies, procedures, work standards and internal controls;
- Understanding, interpreting, explaining and applying complex city, state and federal laws regulating parks and recreation programs and projects;
- Analyzing complex technical and administrative problems, evaluating alternative solutions and adopting effective courses of action;
- Preparing clear and concise reports, correspondence and other written materials;
- Establishing and maintaining cooperative working relationships with a variety of citizens, public and private organizations, boards and commissions, and City staff;
- Exercising sound independent judgment within general policy guidelines;
- Providing leadership and creativity in a changing environment.

Other Requirements:

Must possess a valid California driver's license.

A typical way of gaining the knowledge and skills outlined above is:

Equivalent to graduating from four-year college or university with major coursework in public administration, recreation, landscape architecture, or a closely related field and six years of experience providing administrative oversight of a parks and recreation department or directly administering or supervising a parks and/or recreation department or division which has included program planning, development and administration.

HISTORICAL NOTE:

Est./Exempted: 1/19/59

Ordinance: 190-CS

Spec Adopted: 6/13/57

Resolution: CS2132

Reestablished: 4/4/88

Resolution: CC88-0182

Spec Adopted: 10/31/88

Resolution: CS88-091



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

FINAL REPORT
CASE #1604 SAN JOAQUIN COUNTY DEPARTMENT OF AGING
(IN-HOME SUPPORT SERVICES)

REASON FOR INVESTIGATION:

When the 2004-2005 Grand Jury toured the Human Services Agency, we inquired about In-Home Support Services and later reviewed the 2001-2002 Grand Jury final report, Case #0501 Adult Protective Service. Our Grand Jury felt that there was a potential for financial and physical abuse of disabled clients and initiated an investigation. This is not a report of specific cases of financial or physical abuse but rather an examination of the process of becoming an IHSS caregiver.

BACKGROUND:

In-Home Support Services (IHSS) caregivers provide services to clients with limited abilities such as cleaning, cooking, personal care, transportation, etc. This service allows clients to remain in their homes rather than be institutionalized. The law gives the client the right to select and/or refuse any caregiver. Clients have three options when choosing an IHSS caregiver:

1. A family member or an acquaintance.
2. A caregiver from a registry maintained by the Public Authority. The caregivers on this registry are part of the Union Healthcare Workers Bargaining Agreement.
3. A caregiver from Addus Healthcare, a for profit corporation which holds a contract with San Joaquin County.

San Joaquin County IHSS Statistics:

- San Joaquin County pays just over \$4,000,000 for 5,595 clients who receive care from an IHSS caregiver
- 4,337 caregivers are independent and may, or may not, have more than one client
- About 3,750 clients employ a family member or friend as their caregiver
- Addus has 231 employees serving 616 clients
- Only 70 clients accept a caregiver from the registry which has 233 caregivers listed

The minimum qualifications for and IHSS Public Authority registrant are to:

- Complete and sign a Homecare Provider Application
- Provide a valid and current California driver's license
- Provide his/her social security number or eligibility document to work in the U. S.
- Agree to pass a criminal background check
- Provide three verifiable references

Addus Healthcare requires its employees to:

- Show prior experience in domestic service
- Demonstrate the physical ability to complete assigned tasks
- Complete the orientation and training requirements
- Show ability to follow written and verbal instructions
- Complete assigned tasks with minimal supervision within the social environment of the client

The sole qualification for a family member or acquaintance to be an IHSS caregiver is:

- Complete a W-4 tax form

All IHSS caregivers must submit bi-weekly time sheets verified and signed by the client in order to receive payment for services provided.

If there are complaints of physical abuse, IHSS refers these to the appropriate law enforcement agency for disposition, and IHSS does not conduct a follow-up after law enforcement becomes involved.

METHOD OF INVESTIGATION:

The 2004-2005 Grand Jury interviewed Wendy Moore, Division Chief of Aging and Adult Services. We also toured the Human Services Agency Department and reviewed the following . . .

- IHSS program guidelines
- Addus Healthcare contract
- Union Healthcare Workers Collective Bargaining Agreement with the San Joaquin County IHSS Public Authority
- Policies and procedures from the Public Authority

FINDINGS:

The 2004-2005 Grand Jury finds the following . . .

1. Family and friends providing IHSS care are not required to be trained or submit a background check in contrast to IHSS caregivers listed on the Public Authority's registry. Family and friends who are caregivers are only required to complete W-4 tax form to receive payment for services.
2. There is no specific law to protect clients with disabilities who employ an IHSS caregiver from physical or financial abuse. The Human Services Agency does not have the authority to make periodic evaluations of the client or the client's home.

RECOMMENDATIONS:

The 2004-2005 Grand Jury recommends the following . . .

1. Require **ALL** IHSS caregivers to meet the same minimum legal requirements as the Public Authority's registrants.
2. All IHSS caregivers working outside of the Bargaining Agreement be responsible for providing their own background check and the appropriate training needed to provide services.
3. The Grand Jury realizes that IHSS would find it difficult to provide more services under current staffing, but would like the Human Services Agency to conduct bi-annual interviews with IHSS caregivers and clients to review service provided.

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 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 the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury
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FINAL REPORT
CASE #1804 CITY OF STOCKTON
COMMUNITY DEVELOPMENT DEPARTMENT
PERMIT AND PLAN CHECK FEES

REASON FOR INVESTIGATION:

The 2004-2005 Grand Jury heard from several witnesses testifying in another case. In their testimony, the witnesses alleged that the City of Stockton raised building permit and plan check fees without required council approval and without completing a survey to properly estimate the fee adjustment. The witnesses all further alleged that the city is aware of this over-charging, and continues to do so illegally. These allegations prompted our investigation.

This report focuses on the combination permit and plan check fees for new single-family structures because it generates nearly all revenue for the Building Division.

BACKGROUND:

The Building Division is part of the Community Development Department and calculates fees for building permits and plan checking. The most common type of permit is the combination permit. The fees charged for combination permits provide financial support for the Building Division's expenditures to inspect each trade during the construction process. City ordinance Section 13-304 requires a combination permit to be issued if at least two of the following trades are used:

- Building
- Electrical
- Mechanical
- Plumbing

This requires a combination permit to be issued to construct all new single-family structure.

All references to "revenue" in this report are generated exclusively from combination permits and the accompanying plan check fees. The plan check fees pay for the Building Division's service costs to check building plans for required property clearances, structural calculations, and electrical requirements.

Combination permits are calculated by multiplying the square footage of the living space by the listed valuation, a variable used to estimate the cost to build a house (see example A). This system is used to approximate the cost of inspecting each phase of construction. Plan check fees are calculated as an additional 72% of the combination permit price (see example A).

The Building Division included the plan check fee as part of the combination permit fee prior to a fee change in 2001. The document describing the calculation for the combination permit and plan check fees did not specifically state that the plan check fee was part of the basic combination permit fee of \$36.00 (see the Community Development – Building Schedule of Fees Table). In 2001, a misinterpretation of this document led to the addition of a second plan check fee of 72% of the combination permit fee added on top of the existing fee of \$36.00. Approximately six months later, the Building Division conducted an investigation because it realized that it may be over-charging. The investigation revealed the misinterpretation, but the fee increase was not reversed.

Example A

Calculating the building permit and plan check fee for a 2,000 sq. ft. house

Step 1, Determine permit valuation	
2000 sq. ft. house	
X \$87.00 valuation (for fiscal year 2003-2004)	
\$174,000 permit valuation	
Step 2, Calculate the building permit fee	
\$174,000	
- \$100,000 (first \$100K of valuation)	→ the first \$100,000 of valuation costs \$1656.90
\$74,000 (remaining valuation)	→ the remaining \$74,000 of valuation costs \$9.10 for each \$1,000
74	
X \$9.10	
\$673.40 + \$1656.90 =	\$2330.30
The building permit fee for a 2,000 sq. ft. house will cost \$2330.30	
Step 3, Calculate the plan check fee	
\$2330.30	
X 72%	
\$1677.82	
The plan check fee for a 2,000 sq. ft. house will cost \$1677.82	
The fees for the combination permit and plan check fees for a 2,000 sq. ft. house totals	
	\$4008.12

Typically the developer or the company that builds the home pays the permit and plan check fees. The developers and builders do not challenge the rise in fees because they can pass the charges on to the home owner. The plan check fee for sub-divisions is lowered if the same plan is used for a number of houses and this plan has been approved previously. In this case, the Building Division only needs to check for property clearances and the plan check fees are reduced to 42% of the building permit fee from the normal 72%.

All permit and plan check fee changes must be approved by city council and a study must show the need for the fee increase. This fee increase was proposed to the city council in 2001 with the perception that the department was not charging for plan checking. City Council approved the fee increase in resolution 01-0279.

The Community Development Director can adjust the valuation without council approval. The valuation factor is normally consistent with tables listed by international building councils.

The Grand Jury's investigation revealed that charging more than the cost to provide service

may violate of Health and Safety Code §17951 and Government Code §66014 .

Health and Safety Code §17951 states that fees "...shall not exceed the amount reasonably required to administer or process these permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes. The fees shall be imposed pursuant to Section 66016 of the Government Code."

Government Code §66014 states "...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."

The Community Development Director has stated that these codes do not specify a time in which an agency may recover fees to provide services. The director has also stated that the current fees are not excessive because the Community Development Department, as a whole, has suffered an accumulated ten year deficit of \$40,000,000 and that the department is liable to pay back this deficit even though the city's General Fund has already covered the expenses. The director has further stated that any reserve generated may be put into the city's General Fund to help alleviate any future deficit of the department. The director has admitted that the Building Division currently needs additional employees, training, technology, and building space but that the excess revenue from the past five fiscal years has not been used to support these needs. The director has further explained that, though the fees have increased, the City of Stockton currently charges less than most other cities in California.

The City Manager has also stated that he holds the same position, claiming that the current fee schedule is legitimate because the codes do not specify a time limit to recoup deficits or to build up a reserve. The City Manager asked for and received a "legal analysis" from then Interim City Attorney Jayne Williams to justify the fee increase when the mistake in calculation was identified. An audit conducted by the City Auditor was in accordance with the "legal analysis" stating that the fee schedule was fitting.

The number of permits issued annually is shown in the following chart. The size of single-family homes has increased along with the valuation variable. This accounts for a portion of the fee increases.

Combination permits issued for new, single-family structures

Fiscal Year	1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Permits Issued	1038	1139	823	991	1234	2628	1912	1605	2984	2926

METHOD OF INVESTIGATION:

The Grand Jury heard testimony from several witnesses who were testifying in another case.

The Grand Jury also interviewed:

- Jim Glaser, Community Development Director for the City of Stockton
- Mark Lewis, City Manager for the City of Stockton
- Dwane Milnes, former City Manager for the City of Stockton
- The Building Division Manager
- The former Community Development Director for the City of Stockton, John Carlson
- Former plan check personnel

The Grand Jury also reviewed the following information from the Community Development Department's Building Division:

- Building permit fee structure and formulas for the past ten years
- Plan check fee formulas for the past ten years
- 10 receipts of permits issued for new single-family structures, one from each of the past ten years with similar sized houses
- The Building Division's budget from the past ten fiscal years
- The Building Division's revenue from the past ten fiscal years

The Grand Jury reviewed the following documents:

- 1997 Uniform Building Codes specific to building permit and plan check fees, a description of allowable fees, and the process to appeal fees
- California voter approved Proposition 218, a proposed law requiring voter approval for local government taxes, fees, charges, and assessments which is under litigation
- California Health and Safety Code §17951, Code Enforcement Fees
- California Government Code §66014, Fees for Specific Purposes

FINDINGS:

The Grand Jury finds the following . . .

1. Builders today may be paying excessive fees for combination permits and plan checking because of a misinterpretation made in 2001. This misinterpretation has generated more than \$40,000,000 during the past five fiscal years.
2. The \$40,000,000 surplus that has been transferred to the General Fund and has not been reinvested in the Community Development Department or the Building Division to support its needs.
3. Stockton City Council did approve the permit fee increase in 2001 (resolution 01-0279). The Grand Jury finds that the fee increase was owed to a misinterpretation of the fee schedule document. This misinterpretation was used as the study (analysis) required for the city council to approve the fee increase.