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

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

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

Re: 2005/06 San Joaquin County Civil Grand Jury Final Report

Dear Judge Guiliani and Judge Abdallah:

It is an honor to present the San Joaquin County Civil Grand Jury 2005/06 Final Report to you and the residents of San Joaquin County. This report represents the dedicated and conscientious work of the members for the past year.

Since taking the oath on June 14, 2005, the members of the Grand Jury have diligently met the requirements and carried out the duties associated with their positions, while maintaining confidentiality and respect for everyone involved in the process. It was gratifying to witness the seriousness with which the individuals with varying experience, background, and perspective came together to receive citizen complaints and then research, investigate, deliberate, form a consensus and consolidate their findings and recommendations into a report. This same dedication was applied to the assessments of the various agencies visited this year by the members.

An immense amount of time, effort, and care went into the investigative process, including research, visitations, interviews, and reviews of documents, in order to gather information for each enclosed report. Regular progress reports kept all jurors informed about the separate investigations and provided a basis for questions and discussions. Reports were outlined, written, updated, edited and rewritten by the various committees.


The members of the Grand Jury wish to express our appreciation to Judge Abdallah for his assistance when issues concerned us and for his general guidance. We are truly grateful for the support and guidance provided to us by Assistant County Counsel David Wooten and Chief Deputy District Attorney Scott Fichtner, when their assistance was requested.

Immeasurable gratitude goes to Trisa Martinez, Staff Secretary to the Grand Jury, for her wisdom and knowledge, her support and administrative activities, and for her years of experience. Her capabilities in scheduling interviews, tours, court reporters, and assisting

in many ways lightens the burden of the Grand Jury, and her knowledge of the grand jury process helps new members find their way.

I appreciate your selection of me as a juror in the prior year and especially for the opportunity to be the foreperson of the 2005/06 San Joaquin County Civil Grand Jury. It has been a rewarding and treasured experience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy Knodt', with a stylized flourish at the end.

Randy Knodt
Foreperson
2005/06 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 1, 2006

The Superior Court of California, County of San Joaquin thanks and commends the 2005-2006 Civil Grand Jury for the diligent efforts made on behalf of all San Joaquin County citizens. Guided by the experienced and able leadership of Foreperson, Randolph Knodt, the Grand Jurors undertook and completed their duties with great industry, intelligence and care in the service of their fellow citizens.

The Civil Grand Jury is composed of qualified individuals drawn at random from the community and those nominated by community leaders. The chosen citizens serve as an independent body under the court's authority. The 2005-2006 San Joaquin County Civil Grand Jury now takes its place in a long history of citizen involvement in civic life which was born in the English Common Law of 1166, adopted during the American Colonial period and codified in California in the 1880's. The 2005-2006 Civil Grand Jurors' thoughtful and constructive recommendations will help guide, improve and ensure the quality of local government's future workings.

As the Judge Advisor, it has been my privilege to review the work of the 2005-2006 Civil Grand Jury. This remarkable group of citizens delved into an exceptionally broad range of issues which touch the lives of citizens throughout our communities. Additionally, the Grand Jurors continued the work of their predecessors thereby assuring their fellow citizens that the San Joaquin County Civil Grand Jury as an institution has a continuity that strengthens its role and operations from year to year.

The time, energy, efforts and commitment of these devoted citizens has and will continue to better the civic life of all San Joaquin County residents. To each member of the 2005-2006 San Joaquin County Civil Grand Jury, for your many accomplishments we extend our gratitude and congratulations.

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



2005-2006 SAN JOAQUIN COUNTY GRAND JURY

Randy Knodt - Foreperson
Manteca

Larry Mills - Vice-Foreperson
Stockton

Donna Haight - Secretary
Stockton

Paul Bestolarides
Stockton

Ann Hoag
Ripon

Ed Soon
Stockton

Tama Brisbane
Stockton

Lina Longmire
Tracy

John Thoming
Tracy

Lorraine Bulthuis
Ripon

Patricia Lynch
Stockton

Adrian Vera
Stockton

Karen Edwards
Tracy

Carl Mata
Stockton

Bob Wingo
Stockton

Carla Escola
Ripon

Ernie Mello
Manteca

Henry Hirata
Stockton

Richard Siria
Lodi



Seated:

Second Row:

Third Row:

Not pictured:

Carla Escola, Ann Hoag, Pat Lynch, Lina Longmire, Donna Haight

Ernie Mello, Larry Mills, Karen Edwards, Tama Brisbane, Henry Hirata, Bob Wingo

Paul Bestolarides, Lorraine Bulthuis, Randy Knodt, Richard Siria, Ed Soon, John Thoming

Carl Mata and Adrian Vera



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

FUNCTIONS OF THE GRAND JURY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Desirable qualifications for a grand juror include the following:

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

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

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

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

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

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

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

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

REPORTS OF THE GRAND JURY

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

www.stocktoncourt.org/courts/grandjury

Instructions to Grand Jury Citizen Complaint Form

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.

IV. The grand jury will respond to your complaint and advise you whether or not an investigation will be undertaken. The grand jury may contact you directly during its inquiries.

SAN JOAQUIN COUNTY GRAND JURY

222 East Weber Avenue — Room 303

Stockton, California 95202

209-468-3855

CITIZEN COMPLAINT FORM

Date: _____

This complaint is against:

Name: _____

Title: _____

Agency: _____

Address: _____

Phone: _____

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

(Use and attach extra sheets if necessary.)

Complainant:

Name (printed): _____

Address: _____

Telephone: _____

Signature: _____

All communications to the grand jury are confidential.

HOW TO CONTACT THE GRAND JURY

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

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

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

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

2005/06 SAN JOAQUIN COUNTY CIVIL GRAND JURY COMPLAINT STATISTICS

The 2005/06 San Joaquin County Civil Grand Jury spent a busy year responding to complaints generated by members of the community, focused on concerns covering a broad range of issues. A total of thirty-seven (37) complaints were received this year, with the majority emanating from individual citizens and a few deriving from Grand Jury member concerns. In addition, five matters were carried over from the 2004/05 Grand Jury, with the current group reviewing the issues involved and voting to continue the investigations. The grand total, therefore, for the year was forty-two complaints (42).

As each complaint was received, an initial review was conducted by the entire membership of the Grand Jury to determine whether the matter was one which fell under the legal scope of this body. If determined not to be under the jurisdiction of the Grand Jury, a letter was sent to the complainant indicating that no action would be taken. A total of fourteen (14) complaints fell into this category. On the other hand, if the matter was determined to be related to an agency under the Grand Jury's scope of responsibility, the complaint was assigned to a subcommittee for a preliminary investigation. After a thorough investigation of the matter, the subcommittee presented its findings to the whole membership, so that a determination could be made about the complaint. As a result of these steps, thirteen complaints were closed after the preliminary investigation, with nine (9) resulting in assignment of a case number with continuing investigation.

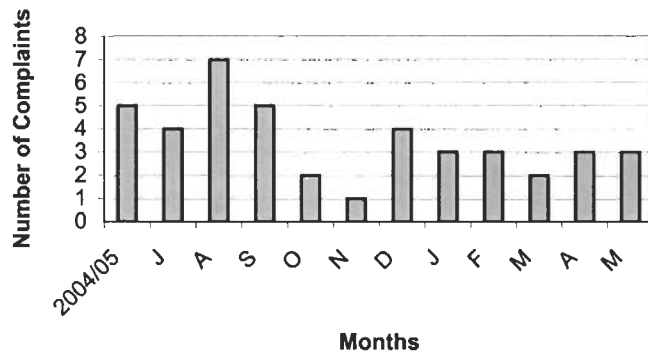
In addition, as each complaint was received, the nature of the complaint was categorized by the members. Based on that assessment, the following distribution related to the received complaints:

- Government Mismanagement—Seventeen (18)
- Government Malfeasance—Eight (8)
- Private Dispute—Nine (9)
- Law Enforcement—Four (4)

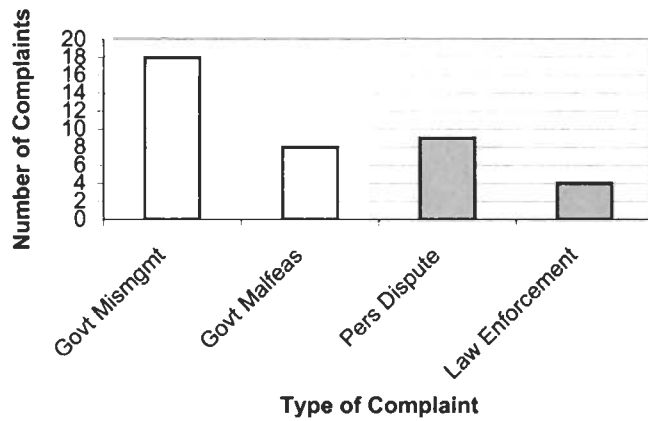
All investigations of complaints involve a combination of investigative techniques, including interviews of the complainant and others with knowledge about the matter, review and comparison of documents, research, and summarization of the findings.

The Grand Jury also assigned a subcommittee of members to conduct follow-up to the 2004/05 Civil Grand Jury Final Report to ensure that necessary steps had been taken by the agencies to address prior recommendations. This Follow-up Subcommittee investigated four separate agencies, with the findings and any new recommendations included in the 2005/06 Final Report

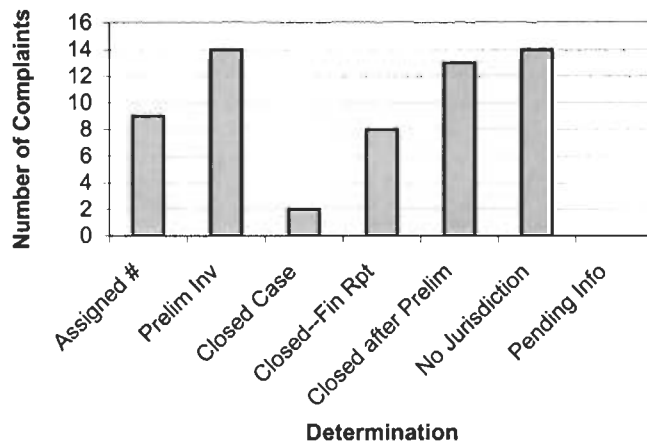
Grand Jury 2005/06 Complaints Monthly Totals



Grand Jury 2005/06 Complaint Types
(Some complaints include more than one type)



Complaint Determinations





Grand Jury
County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
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FINAL REPORT

CASE #1704: CITY OF STOCKTON REDEVELOPMENT

REASON FOR INVESTIGATION:

The 2004-2005 San Joaquin County Civil Grand Jury received a complaint on April 21, 2004, alleging mismanagement of the construction of the Events Center Projects (Ballpark and Arena), including the following:

1. Cost overruns on waterfront/Events Center projects;
2. Lack of project oversight;
3. Lack of proper utility inspections prior to being signed off;
4. Poor communication between city departments, developers, and contractors;
5. Appearance that City Manager unilaterally controlled projects, finances, change orders, etc., without City Council knowledge and/or approval;
6. Transfer of funds from budget categories into infrastructure fund and public facility fee revenues;
7. Violations of Stockton's own policy, resolutions, and guidelines (CA Government Code §§66000-66006).

Several interviews were conducted by the 2004-2005 Grand Jury as it began its investigation, but its term of service expired before any conclusions were formulated or recommendations were made. After reviewing the information collected by the previous Grand Jury, the 2005-2006 Grand Jury chose to continue the investigation, and identified the following additional issues:

8. Whether information is presented by staff to the City Council in a timely and concise manner in order to provide for comprehensive review and understanding of the material to make prudent decisions.
9. Whether monies from various City budget accounts were used and transferred appropriately to finance redevelopment projects.
10. Whether loans from one budget area to another were documented and authorized adequately to indicate the precise terms of the loan and the repayment schedule.
11. What were the on-going costs of maintenance, utilities, and other City services for these new facilities.
12. Whether the Stockton City Council has adequate policies and procedures in place to oversee fiscal management of large projects such as the Ballpark and Arena and whether they are being followed by the City Council and its designees.

BACKGROUND:

Stockton incorporated into a City in 1849. Its first local Charter under the 1879 California State Constitution was approved by the voters in 1888, and ratified by the State Legislature in 1889. Under this Charter, Stockton operated as a commission form of government composed of department heads who also acted as legislators. In 1921-23 the change to a City Manager-Council form of government was completed. In 2000 a significant change occurred when the job of Mayor became a full-time elected position. The Mayor is, in effect, the seventh member of the City Council.

The Mayor and City Council have the ultimate responsibility to properly manage all City affairs, but the City Manager runs the day-to-day operations with the City Council's approval.

The Charter of the City of Stockton, Article XI, Section 1102, Powers and Duties, outlines the scope of the powers and responsibilities of the Mayor and the City Manager. Among the items relevant to this investigation are the following duties and powers of the Mayor:

- Review the City Council agenda and add items as necessary;
- Make recommendations to the Council and City Manager on matters of policy and programs;
- Direct officials appointed by the Council to provide information to the Council on matters requiring Council decisions;
- Request budgetary and other information from officials appointed by the Council;
- Address the citizens at least annually on the current status of City affairs;
- Inform the citizens at other times on matters important to the welfare of the community;
- Provide specific recommendations relating to the City budget and provide reasons for changes;
- Preside at meetings of the Council and vote as a member (without power of veto).

The City Manager as the Chief Administrative Officer of the City has responsibilities to the Council for the "efficient administration " of all affairs of the City and has powers and duties, according to the City Charter, Article XII, Section 1201, including the following:

- Appoints all officers and employees of the City, except as provided elsewhere in the charter;
- Directs and supervises the administration of all departments, offices, and agencies;
- Attends all regular and special meetings of the Council, with no voting power;
- Is responsible for the faithful execution of all laws and of the provisions of the City Charter;
- Prepares and submits the annual budget to the Council;

- Makes and executes contracts and authorizes expenditures of less than twenty thousand dollars (\$20,000);
- Submits an annual report on the finances and administrative activities of the City, which includes an accurate and complete picture of the fiscal status and condition of the City;
- Provides other reports as requested by the Council concerning operations and keeps the Council fully advised about the finances of the City;
- Makes recommendations to the Council as needed or as requested;
- Appoints advisory boards and committees;
- Exercises other powers and performs other duties as authorized or required by the Council.

METHOD OF INVESTIGATION:

The 2005-2006 Grand Jury performed the following:

- Reviewed the Charter of the City of Stockton;
- Reviewed materials that were submitted to the City Council regarding the Events Center project;
- Reviewed minutes of selected City Council meetings;
- Researched cities with comparable population to Stockton, and used the ERA - (Economics Research Associates) report to compare costs of building structures similar to the Events Center;
- Compared use agreements between comparable venues and sports teams in other cities of comparable size and scope (Exhibit A, Contract Comparisons Between Designated Cities and Sports Teams);
- Reviewed correspondence related to the project;
- Requested and reviewed City documents in an attempt to provide fiscal background;
- Reviewed the Events Center change order lists (Exhibit B: Change Order Lists);
- Reviewed the recent Stockton Events Center Fiscal Evaluation by Macias Consulting Group, Inc.;
- Reviewed California Government Code §§66000-66006;
- Reviewed transcripts of testimony.

The 2004-2005 and 2005-2006 Grand Juries interviewed those involved with the Ballpark and Arena projects, including the following:

- Former Mayor, Gary Podesto;
- Mayor, Edward Chavez;
- Former Project Manager, James Rinehart;
- Project Manager, Gary Ingraham
- Former City Manager, Mark Lewis;
- City Council Members: Steve Bestolarides, Gary Giovannetti, Leslie Baranco Martin;

- City Attorney, Ren Nosky;
- A contractor representative;
- Housing and Redevelopment Director;
- Tom Volpe, Stockton Ports Organization;
- Other City of Stockton employees;
- Concerned citizens.

FINDINGS:

1. Cost overruns on waterfront/Events Center Projects

- Cost overruns resulted from redesigns and change orders initiated by the City Manager, sometimes without the advance knowledge or approval of the Council.
- The City Council failed in its fiduciary responsibility of oversight of taxpayer monies. The original Guaranteed Maximum Price (GMP) approved by the City Council for the Arena was \$67.1 million; however, after redesigns and change orders the total spent was in excess of \$99 million. The GMP for the Arena was negotiated very late into the project.
- There was no Guaranteed Maximum Price (GMP) for the Ballpark, with original estimates starting at \$8 million. Final cost for the Ballpark was more than \$21 million after design changes and construction delays.
- The 2005/06 Grand Jury established early in the investigation through testimony and documents that the true cost of the project was not known at an early stage of planning nor as construction began. The magnitude of the costs grew over time.

2. Lack of project oversight

- The City Council gave very broad powers to the City Manager to oversee design, construction, and management of the Events Center project.
- Many major decisions were made by the City Manager without prior approval by the City Council, some of which were quite costly in the final project.
- The City Council provided little oversight for design changes and change orders, with approval often given after the fact.
- During its investigation, the 2005/06 Grand Jury found that the financing sources were difficult to track and confirm. The recent external audit conducted by the Macias Consulting Group, Inc., indicated difficulty in determining the overall cost of the project because of poor accounting procedures.

3. Lack of proper utility inspections prior to being signed off.

- The 2005/06 Grand Jury was informed early on that improper inspection reports were generated in the project, including signoff of permits before the work was completed; however, the Grand Jury could find no confirmation one way or

another of this allegation. The Macias audit confirmed that environmental reports, legal inspections, and permits were not included, reported, or tracked.

4. Poor communication between City departments, developers, and contractors.

- Input from other involved parties, users, and consultants was either ignored, or not requested, by the City Manager. The City Manager made significant decisions about the projects without informing or involving other interested parties or other City departments and staff. The seating and layout for the Arena was changed unilaterally by the City Manager. Tom Volpe, Ports owner, ultimately had little input as to the size, the configuration, or the seating in the Ballpark. Based on written correspondence and other information reviewed by the Grand Jury, the members determined that Mr. Volpe felt he was shut out of the planning and building process of the Ballpark.

5. Appearance that the City Manager unilaterally controlled projects, finances, change orders, etc., without City Council knowledge and/or approval.

- Many major decisions were made by the City Manager without prior approval by the City Council.
- Cost overruns resulted from redesigns and change orders which were initiated by the City Manager, sometimes without Council knowledge.
- The City Council gave very broad powers to the City Manager to oversee design, construction, and management of the Events Center project, and subsequently had to approve increased construction costs for the project, often after the fact.

6. Transfer of funds from budget categories into infrastructure fund and public facility fee revenues.

- The costs of the Events Center projects have been met by transferring funds into and out of the general fund and other accounts as well as by bond monies. Project costs were covered by a combination of funds from the Redevelopment Agency, Community Development, the General Fund, Public Facilities Fees, and Utilities Department fees, among others.
- Movement of general funds to cover project costs and bond repayment has affected other city projects and operations.
- Funds set aside for street work in the Charter and Airport districts have been redirected to the Events Center projects or the Hotel Stockton.
- The first phase of the Williams Brotherhood Park Community Center will not get a gymnasium and other planned amenities at this time because funds have been spent on the Events Center projects or the Hotel Stockton.
- Personnel from at least five City departments were reassigned to, or assisted in work on the Events Center projects. Their salaries were paid out of the budgets from their original departments, so actual total personnel costs for the Events

Center projects cannot be determined, as confirmed in the Macias audit. This action also deprived the public of services in those understaffed departments.

- There is possible non-compliance with fees within the California Government Code §66001, which requires identification of the purpose of a fee and its relationship to the development project upon which it will be used, as well as a relationship between the need for the facility and the fee. This section also requires that the accounting and expenditures of this fee be specific.
- There is possible non-compliance with fees within the California Government Code §66002, which requires that a capital improvement plan indicate the location, size, time of availability, and estimates of cost for the project financed with these fees.
- There is possible non-compliance with fund transfers within the California Government Code Section 66006 which requires that the documentation for interfund transfers or loans include specific information about the transfer or loan, including the date for repayment and the rate of interest to be paid. In addition, California Government Code §66006 requires that fees be expended solely for the purpose for which the fee was collected. It further requires (as stated above) that fund transfers or loans require specific documentation.
 - The costs were met by transferring funds from the general fund and other accounts.
 - Terms and repayment of loans from one account to another are not readily determined.
 - Funds set aside for street work and Charter and Airport districts have been depleted and spent on the Events Center projects.
 - The first phase of Williams Brotherhood Park Community Center will not get a gymnasium and other planned amenities because funds have been diverted to help pay for the Events Center projects.

7. Violations of Stockton's own policy, resolutions, and guidelines. (California Government Codes §§66000, 66001, 66002, 66006)

- The City Council failed to adhere to the City's Charter in allowing the City Manager to expend funds well above the \$20,000 limit, without prior Council approval.

8. Communication between City staff and City Council related to decisions.

- Sometimes the City Council lacked specific information about the projects in order to make good decisions about construction, design, and costs. Council Members were given large packets of information on matters requiring important financial decisions for review only twenty-four hours prior to Council meetings.
- City staff did not always provide information requested by individual City Council members outside of Council meetings with regards to the Events Center.
- Lack of sufficient communication existed between the City Manager and the City Council in the project's decision-making process.

9. Transfer of monies from City funds to finance redevelopment projects.

- Some of the costs for redevelopment projects were met by transferring funds from the general fund and other accounts, including moving money to the general fund so that it was available for the Events Center projects.
- Movement of general funds to cover project costs and bond repayment has affected other City projects and operations, such as public works, lighting, park maintenance, and security.

10. Documentation and authorization for loans.

- Documentation and/or information about the terms and repayment of loans from one City budget account to another as outlined in California Government Code §66006 have not been provided to the Grand Jury.
- See #6 above.

11. The scope of on-going costs of maintenance, utilities, and other City services for these new facilities.

- Ports owner, Tom Volpe, signed a contract and paid in advance for the use of the Ballpark. He received a twenty-five year contract for \$1.2 million. This upfront payment allows the Ports use of the facility for \$680 a game (based on the current schedule). During baseball season, the Ports organization has full use of the facility from April through September. Also, the Ports organization has been given the right to use the facility for ten additional events, beyond their scheduled ballgames.
- The City of Stockton's website shows a population of 279,513. The ERA report shows a population of 581,200, which includes the entire County. Clearly, the City was taxing its citizens to build facilities in hopes of bringing in citizens from the rest of the County. If the realistic population was applied to the ERA, no similar-sized community would have been listed for comparison.
- Tom Volpe wanted fewer fixed seats and more grass seating in the Ballpark, but after he signed an agreement and the City Council approved the contract, the former City Manager added more seats and removed the second level. The changes in configuration have an impact on the concession revenues in the Ballpark.
- The major portion of the costs for utilities and for maintenance of the facilities falls to the City of Stockton.
- The actual costs of utilities, the costs of maintenance for the facilities, and the costs of the financing of the sports teams contracts have not been made available, despite requests for detailed information by the Grand Jury.

12. Policies and procedures regarding capital projects.

- The City Charter contains policies for governance operations. The Grand Jury found that projects of this size in other cities are often handled by private

contractors so that oversight is adequately performed by persons who have expertise, while the decision-making powers rest with the City Council.

- The City Council did not hold the City Manager accountable to the City Charter policy of the spending limit of \$20,000 per change order without prior City Council approval. At one City Council meeting in December 2004, the members approved a request for \$1 million in increased costs for the projects. In actuality, the increase encompassed more than \$11 million in increased costs, all done before approval by the City Council. In the duties and responsibilities outlined in the City Charter for the City Manager, these significant increases to the project costs should have been brought to the Council for approval prior to the expenditure.
- There is possible non-compliance with fees within the California Government Code §66001, as outlined in #6 above.
- There is possible non-compliance with fees within the California Government Code §66002, as outlined in #6 above.
- There is possible non-compliance with fund transfers within the California Government Code §66006, as outlined in #6 above.

RECOMMENDATIONS:

The 2005-2006 Grand Jury recommends the following:

1. The City Council must re-evaluate its own responsibilities and those of the City Manager with regard to oversight of capital projects.
2. The City Council must oversee all decisions made by the City Manager on project design and change orders if future responsibility rests with the City Manager to oversee major projects. However, the Grand Jury recommends that the City Council hire an expert with proven expertise to manage this type of project, who will report regularly and specifically to the City Council. The basic plan and any significant changes must be approved by the City Council before action is taken and money committed.
3. The City Council must have a firm plan to determine the costs, cost effectiveness, feasibility of a project, and maintenance expenses of future projects before beginning construction. Any future projects must be controlled by a specific design and development plan monitored closely by the City Council, including a GMP at the outset.
4. City staff must document all permits, inspections, and progress reports related to construction projects for City Council review.
5. City Council members must require the City Manager and City staff to keep them well-informed of details and specifics of any and all city-related issues. Information presented to the City Council for its approval must be organized for review and be presented to the City Council with sufficient time to analyze the material before decisions are required. All material should be given to the City Council members no later than the time the agenda is posted.

6. The City Council must exercise oversight with use agreements between the city and sports teams using the Ballpark and Events Center to minimize the City's expenditures related to the use of the facilities.

7. The City Council must take full responsibility for fiscal management of taxpayer funds and must be diligent in overseeing budgetary matters.

8. Before contracting for future major projects, the City Council must have all project design criteria and funds in place before contracting for the projects. Staffing costs must be included in the building budget. Ongoing costs must be determined, budgeted and tracked long-term, with a Guaranteed Maximum Price in place at the outset.

9. The City Council must review policies and procedures to comply with California Government Codes and the City Charter. All funds transferred are to be documented with source of fund, date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

CITY	TEAM	TERMS OF CONTRACT	FEES/LEASE PAYMENTS Per game/year	OPTIONS TO RENEW	USE TERMS (i.e., # games, season length)	CONCESSIONS	SECURITY & RESPONSIBILITY
Bakersfield	Bakersfield Condors Professional Hockey Club (Flying Puck, LLC)				City pays \$3,000/year for advertising oil and curbside recycling		Condors \$1M insurance and workers comp
Bakersfield Rabobank Arena and Convention Center (SMG)	Bakersfield Sports Partners, LLC ("owner") Bakersfield Blitz Indoor Football	Oct. 26, '05 to Sept. 30, '08 Liquidated damages 8/3-12/31 \$45K; After 12/31, \$67.5K	\$3,500/exhibition regular, playoff game plus \$1/head over \$3,500 City pays \$2400 pass-thru for luxury suite leases sold and collected less \$2,000 to owner for first seven games		Home games, practice, playoff, tournament. 1 high school all-star event and 2 local charity events	SMG (city) 10% to Blitz 100% merchandise sales to Blitz	
Fresno Convention Center (FCC) Director (FCC director)	American Championship Sports Television, Inc. Arena Football	2004— addendum not included that stated details	\$10,000 advance deposit \$5,000/game \$120/hr overtime charge		2004 Arena Football 2 season		

CONTRACT COMPARISONS BETWEEN DESIGNATED CITIES AND SPORTS TEAMS USING ARENAS OR OTHER FACILITIES

CITY	TEAM	TERMS OF CONTRACT	FEES/LEASE PAYMENTS Per game/year	OPTIONS TO RENEW	USE TERMS (i.e., # games, season length)	CONCESSIONS	SECURITY & RESPONSIBILITY
STOCKTON (City of)	Stockton Ports (7 th Inning Stretch, LLC)	25 years	\$1,200,000 prepaid Ball Park Fund gets #1 per ticket less 1,000 non-revenue tickets & kids club <i>\$680/game</i>	2 options of 7 years each	Scheduled games plus 10 events plus exhibition and all-star games	Ports team store and concessions and advertising	Ports -2 uniformed officers min., insurance City -paper products, maintenance/repair, permits/approvals, utilities, trash disposal, property insurance, parking
<i>Stockton</i>	Thunder-Ice Hockey (IFG-Stockton Franchise Group)	10 years	1 st 5 yrs: \$4,250/game// 3,500/playoff or preseason game 2 nd 5 yrs: \$4,750//4,000 PLUS rent credits Audit per year	2 options of 5 years each: 1 st option: \$5,250//4,500 2 nd option: \$5,750//5,000 Added rent +6 th season 12-1/2% of gate receipts over \$2M	Regular season plus exhibition and all-star games	City operates concessions- 30% adjusted gross to team Team merchandise: 90% to team, 10% to city One luxury suite nest to team suite for city officials	
<i>Stockton</i>	Arena Football (IFG-Stockton Franchise Group)	5 years	Base rent same as for ice hockey games (above) Audit per year	3 options of 5 years each			

REGENT EVENT CENTER, LLC
CHANGE ORDER LOG

Revision Date: 4/23/04

Change Order	Description	Contractor	Am't Approved	Date Submitted	Date Approved	Est. No.	City Code
1	Costs for HSS not included originally because scope was not defined in contract with HSS	Heinlein Schrock Sterns	\$68,471.00	3/16/04	3/16/04	n/a	137183
2	To incorporate costs for mechanical, electrical and plumbing into contract of Swinerton.	Swinerton Builders	\$639,122.00	3/17/04	3/17/04	none	C03503(a)
3	Removal of hazardous soils from site and install construction fence.	Swinerton Builders	\$114,895.00	3/17/04	3/17/04	none	C03503(c)
4	Installation of temporary electrical power.	Swinerton Builders	\$220,282.00	3/17/04	3/17/04	none	C03503(c)
5	Demolition of Marina Tower - allowance for asbestos abatement.	Swinerton Builders	\$702,763.00	3/19/04	Not signed	none	C03503(c)
6	Site clearing and grubbing, earthwork, excavation of ball park, site utility work, installation of ring road and surface parking lot north of ball park	Swinerton Builders	\$2,208,527.44	4/19/04	4/19/04	none	C03503(c)
7	Include added hazardous soil removal into Swinerton Builder's demolition efforts for Area 16 and Carando Site.	Swinerton Builders	\$385,178.00	4/20/04	4/20/04	none	C03503(c)
8	Amend overall site improvement and landscaping design for HSS.	Heinlein Schrock Sterns	\$444,299.00	4/20/04	4/20/04	n/a	137183
9	Structural Excavation and Concrete, Fire protections systems and structural and architectural pre-cast concrete	Swinerton Builders	\$9,170,834.00	4/23/04	4/23/04	none	C03503(a)
10	Requested by City to amend Development Coordination Agreement for Archaeological survey of Parcel 12 of Waterfront site.	Regent Event Center, LLC	\$23,881.00	4/28/04	4/27/04	none	140452
26	Backfill Area 15 contaminated soil site. 4,000 cubic yards of soil.	Swinerton Builders	\$61,453.00	4/28/04	4/28/04	1004	C03503(c)
12	Amend Structural Steel for Arena	Swinerton Builders	\$3,132,671.00	4/30/04	4/30/04	1005	C03503(a)

Change Order	Description	Contractor	Am't Approved	Data Submitted	Date Approved	Rate No.	City Code
13	Add demolition of Marina Tower, includes asbestos abatement work - 6 weeks to complete	Swinerton Builders	\$336,116.00	4/30/04	4/30/04	1006	1006
14	Cover additional contaminated soil as required by City.	Swinerton / Evans Brothers	\$47,234.00	5/13/04	5/13/04	1011	C03503(c)
15	Cover additional contaminated soil as required by City.	Swinerton / Evans Brothers	\$177,710.00	5/14/04	5/14/04	1004.001	C03503(c)
16	To incorporate balance of Swinerton's Arena GMP proposal into Swinerton's current contract with City	Swinerton Builders	47,247,762.00	5/27/04	5/27/04	GMP	C03503(a)
17	Incorporate balance of site infrastructure GMP proposal from Swinerton builders into Swinerton's existing contract with City to meet schedule.	Swinerton Builders	5,332,282.00	5/27/04	Not signed; Incorporated into CO 16	n/a	C03503(c)
18	Cost savings related to backfill of Area 15	Swinerton Builders/DSS	-36,061.00	6/5/04	7/1/04	1004.002	C03503(c)
19	Added costs related to removal of unforeseen concrete foundations and asphalt paving.	Swinerton Builders/DSS	125,903.00	6/5/05	6/21/04	1008	C03503(c)
20	Added costs related to removal of contaminated soil from Event Center site.	Treadwell & Rollo	274,700.00	6/7/04	6/7/04	n/a	136998
21	Added costs of removal of existing trees along south side of project site	Swinerton Builders/DSS	9,537.00	6/21/04	6/21/04	1026	C03503(c)
22	Added costs for removal/disposal of underground fuel and oil tanks from project site	Swinerton Builders/Thorpe	31,867.00	6/21/04	6/21/04	1020	C03503(c)
23	Added costs related to Area 16 clean-up	Swinerton Builders/RB	5,895.00	6/21/04	6/21/04	1015	C03503(c)
24	Cost of overtime work performed by site grading contractor DSS.	Swinerton Builders/DSS	2,202.00	6/21/04	6/21/04	1019	C03503(c)
25	Removal of contaminated soil/fuel tanks at the Carando Site.	Swinerton Builders/RB & Thorpe	12,716.00	7/2/04	7/29/04	1014	C03503(c)
26	Architectural design services associated with FF&E.	Heinlein Schrock Stearns	78,000.00	7/19/04	7/29/04	n/a	137183

Change Order	Description	Contractor	Am't Approved	Date Submitted	Date Approved	Ref No.	City Code
27	Architectural design related to "North of Fremont" landscaping, parking lots, traffic analysis and Fremont Street Changes	Heinlein Schrock Stearns	231,000.00	7/19/04	7/29/04	n/a	137183
28	Enhanced construction administration support by HSS.	Heinlein Schrock Stearns	150,000.00	7/20/04	7/29/04	n/a	137183
29	Additional services to demolish 3 residential structures on Fremont Street.	W.C. Maloney	34,564.00	7/20/04	7/29/04	1025	C03503(c)
30	Earthmoving & grading in for Ball Park re-design	Swinerton Builders/DSS	44,305.00	7/22/04	7/29/04	1060;1061;1062	C03503(c)
31	Concrete, Steel, MEP, etc. early release at Ball Park	Swinerton Builders/Various	5,192,532.00	7/22/04	7/29/04	1064	C03503(b)
32	Excavation/backfill of electrical trench at Ring Road	Swinerton Builders/Garrison Tractor	66,186.00	7/22/04	7/29/04	1036	C03503(c)
33	Underground conduits for City Surveillance fiber system	Swinerton Builders/Collins	36,313.00	7/22/04	7/29/04	1055	C03503(c)
34	Gas System in Ring Road (to be reimb. By PG & E)	Swinerton/Smith Denison	20,575.00	7/22/04	7/29/04	1034	C03503(c)
35	Water main facilities in Ring Road	Swinerton Builders/DSS	327,765.00	8/6/04	8/16/04	1068	C03503(c)
36	Add'l costs for Curved Girt Framing & Hanger Rods	Swinerton Builders/Gayle	47,614.00	8/6/04	8/16/04	1032; 1032.001	C03503(a)
37	Early Release Auth for critical components of Structural Steel in the Ball Park	Swinerton Builders/Olson Steel	895,740.00	8/6/04	8/16/04	1067	C03503(b)
38	Graphics/Signage Package for Arena	Heinlein Schrock Stearns/360 Architecture	38,000.00	9/30/04	10/20/05	n/a	137183
39	Redesign of Ball Park	HKS Architects	200,000.00	9/3/04	9/10/04	n/a	137475
40	Early Release Auth for critical components of Ball Park	Swinerton Builders	3,583,717.00	9/23/04	10/5/04	1097	C03503(b)
41	12 KV Primary Switchgear	Swinerton Builders / Collins	264,925.00	10/4/04	10/7/04	1121	C03503(a)
42	On site architectural representation	HKS Architects	40,000.00	11/3/04	11/10/04	n/a	137475
43	(Number not used)				VOID		
44	Ball Park GMP (not approved; see #56)	Swinerton	10,604,826.00	10/5/04	Not Approved		C03503(b)
45	Carando site Cleanup	Swinerton/Jim Thorpe	21,198.00	10/13/04	10/19/04	1057	C03503(c)

Change Order	Description	Contractor	Amount Approved	Date Submitted	Date Approved	Ref No	City Code
70	Scoreboard Allowance (Holst Only)	Swinerton Builders	0.00	1/13/05	1/14/05	1228	C03503(a)
71	Ballpark Cast Stone Allowance	Swinerton Builders	356,301.00	1/14/05	1/14/05	1219	C03503(b)
72	Fowler Parking Lot Construction	Swinerton Builders	48,222.00	1/14/05	1/21/05	1265	C03503(c)
73	Ballpark 3" Rigid Insulation	Swinerton Builders	61,992.00	1/18/05	1/21/05	1233-001	C03503(b)
74	Security System Allowance	Swinerton Builders	150,075.00	1/19/05	1/21/05	1072-001	C03503(a)
75	Demo & Fill - underground void	Swinerton Builders	9,341.00	1/21/05	1/27/05	1109	C03503(c)
76	Area 16 Ex & Pile 102 export & Cut sheet piles at Carando	Swinerton Builders	142,599.00	1/27/05	2/4/05	1047 & 1099	C03503(c)
77	Marina West Pkg Lot - Electrical Work	Swinerton Builders	63,539.00	1/27/05		1158-001	C03503(c)
78	Ballpark Reference Issues	Swinerton Builders	817,340.00	2/17/05	2/17/05	1078-1336	C03503(b)
79	Ballpark Professional Services	HKS Architects	85,580	2/1/05			137475
80	Site Work - Re-grade Hinge point; 10/27/04 Siegfried Drawings	Swinerton Builders	185,424.00	2/15/05	2/17/05	1155;	C03503(c)
81	Carando Hazmat excav & disposal	Swinerton Builders	172,000.00	2/11/05	2/17/05	1333	C03503(c)
82	PUE excavation & sand	Swinerton Builders	41,013.00	2/14/05	2/17/05	1295	C03503(c)
83	Arena Carpentry Allowance Release	Swinerton Builders	0.00	2/14/05	2/17/05	1287	C03503(a)
84	Demo of 225 Fremont	Swinerton Builders	18,490.00	2/15/05	2/17/05	1258	C03503(c)
85	Rain Mitigation OT	Swinerton Builders	200,000.00	2/17/05	2/17/05		C03503(b)
86	Rain Mitigation Future	Swinerton Builders	504,020.00		2/17/05		C03503(b)
87	Ballpark Project Administration Costs	Swinerton Builders	85,311.00	2/17/05	2/17/05		C03503(b)
88	Marquee Conduit from Garage to Arena	Swinerton Builders	9,183.00	2/18/05	2/23/05	1285	C03503(c)
89	Fremont St. Street Lights (21)	Swinerton Builders	136,079.00	pending Harold's review		1169	C03503(f)
90	Arena - Sauna Allowance	Swinerton Builders	0.00	2/18/05	2/23/05	1195	C03503(c)
91	Fremont St. Pkg Lot Soundwall	Swinerton Builders	226,098.00	pending review & possible VE		1230	C03503(f)
92	Traffic Signal Poles on Fremont	Swinerton Builders	109,061.00	2/24/05			C03503(f)
93		Swinerton Builders					
94	Terrazzo Flooring	Swinerton Builders	93,252.00	2/25/05		1069	C03503(a)
95	Lime Treatment of 4 parking lots	Swinerton Builders	174,495.00	2/25/05		1354	C03503(c)
		Swinerton Builders					
		Swinerton Builders					



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

FINAL REPORT

CASE # 1904: SAN JOAQUIN REGIONAL TRANSIT DISTRICT

REASON FOR INVESTIGATION:

The 2004/05 Grand Jury received a complaint and began an investigation regarding the San Joaquin Regional Transit District (SJRTD); a consensus of the 2005/06 Grand Jury provided for a continuation of this investigation. The original allegations against SJRTD concerned fare increases and service cuts related to employees calling in sick, the ordering and stocking of replacement parts for district busses, and wrongful terminations of union personnel. An interview by the 2004/05 Grand Jury raised questions pertaining to the purchase and funding of the Trolley, with a suggestion that violations had occurred of the Federal Transit Authority's procurement policy. Information was also brought to the 2005/06 Grand Jury, as a result of additional interviews, that alleged misuse of SJRTD credit cards by authorized employees.

BACKGROUND:

The SJRTD has the responsibility for the day-to-day operation of a regional public transit services in San Joaquin County and employs over 220 personnel. The SJRTD is directed by a Board of Directors and Ms. Donna Kelsay, General Manager/Chief Executive Officer (CEO) of the District. The 2004/05 Grand Jury investigated a complaint from union officials in March of 2005 against Donna Kelsay. The SJRTD employees are represented by the Amalgamated Transit Union (ATU), Local 276, whose contract expired on June 30, 2003. The SJRTD and ATU have been in arbitration since the contract expired and the arbitrator's final decision announced an agreement to be in effect from January 1, 2006 through June 2006.

METHOD OF INVESTIGATION:

- The current Grand Jury reviewed purchase documents, correspondence, and charges concerning the purchase of the trolley and other expenditures by the RTD.
- Interviewed Donna Kelsay, SJRTD General Manager/CEO
- Interviewed current and former SJRTD employees.
- Toured the SJRTD facility.
- Reviewed Credit Card procedure manual, charges, and records for approximately the last four years (2002-2005).
- Reviewed trolley purchase contracts/documents.
- Reviewed SJRTD Organizational charts, Strategic Plan, Personnel Manual, Attrition rates/Demotions, Equipment Out of Service reports, and Bus Out of Service for Parts records.

FINDINGS:

1. A question was raised as to the legality of a trolley purchase; it was determined that the procurement of the trolley met the bid criteria (IFB S-2004-027) and was in compliance with the Federal Transit Authority's procurement policy. A second concern was the funding of the trolley, related to whether federal or local funds were used for the purchase. The information provided by SJRTD and a review of the contract and purchase documents showed that local funds were used; therefore, the Grand Jury found no substantiation of the claim concerning funding of the trolley purchase.

2. Allegations were also raised concerning the termination and suspension of Union members. Personnel operations, the Union contract, and related issues (i.e. sick calls, call-back time, etc) are not within the scope or purview of the Grand Jury.

3. Allegations that buses were not operating for lack of parts was examined by the Grand Jury. Federal regulations preclude the cannibalizing of bus parts to maintain the SJRTD fleet operations. The procurement process was being followed and the availability of parts was beyond the control of SJRTD. Maintaining an inventory of parts in anticipation of failure is cost prohibitive.

4. An extensive review of credit card purchases and supporting documents was conducted. As a result of this review, some questions arose as to the appropriateness of some purchases and SJRTD's adherence to the Purchasing Credit Card Program procedure manual. Over a period from May 2002 through November 2005, a total of ninety-five (95) questionable charges were noted, for small amounts suggesting an individual's purchase of food or drinks. In addition, the substantiation for purchases and expenditures was poorly or inadequately documented and not in accordance with the Purchasing Credit Card Program Procedures (April 2005).

RECOMMENDATIONS:

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

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

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

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT

**CASE # 0205: CITY OF STOCKTON EMPLOYEE MONETARY AWARDS OF
PUBLIC FUNDS**

REASON FOR INVESTIGATION:

The 2004/05 Grand Jury investigated personnel matters of the City of Stockton in which city employees received monetary bonuses. The current (2005/06) Grand Jury decided to examine bonuses/awards to City employees using the Personnel Action form CS-23, which is a general form used by the city for personnel actions. In all but four of the awards the supporting documentation justifying the bonuses was generic and without clear substantiation.

BACKGROUND:

In City Council Resolutions #25,758 (July 7, 1966) and #27,080 (July 1, 1968) the City Manager has the delegated authority to award "5% or one salary step (7/7/66); or up to one-half month's salary" (7/1/68), respectively, for "unusual accomplishments." Given this delegated authority to the City Manager, no written policy, procedure, or guidelines exist for making said awards. The bonuses are paid out of the department's budget wherein said employee is working.

A total of 73 awards were made from February 2001 to November 2003 (twenty-one months) totaling approximately \$123,000. Awards were submitted on the CS-23 form with a letter/memorandum attached which identified the task/assignment for which the employee was awarded the monetary bonus. The bonus awards were either one or two weeks of the employee's designated monthly salary and were reported on the CS-23 form (one week awards: 63; two week awards: 10). In some instances the same recipients received two or three awards during this twenty-one month period. The lowest dollar amount awarded was approximately \$800 and the highest was approximately \$5500. In all but four awards, the corresponding documentation in support of the bonuses was generic in nature and failed to clearly identify an "unusual accomplishment" meriting said award. Furthermore, the supporting documentation merely presented that the employee was performing the duties/tasks which they may have normally been expected to perform in the course of their civil/municipal duties. Awards were made to rank and file, supervisory, and managerial employees.

In reviewing the practices of awards/bonuses in other jurisdictions, it was determined that:

- In other cities in San Joaquin County (Manteca, Tracy and Lodi) no such award tied to an employee's salary was found to exist.
- Under the Administration Manual for San Joaquin County, section 2587.11, awards of compensatory time off are given for each \$1,000 in savings, up to three days within a calendar year.
- The City of Modesto (Stanislaus County) awards \$75 for "good ideas," and a written procedure is in place to identify the parameters for said award.
- The State of California, under Department of Public Administration rule 599.797 and Government Code section 3513 (g), may award supervisors at least \$250 but not more than \$750 for outstanding job performance. The number of awards is determined by dividing the total number of supervisors by 50, and no supervisory employee may receive more than one award under this rule. "The appointing power shall make these awards based on their assessment of job performance"... and "shall document, in writing." Furthermore, "the job performance must clearly exceed the standard of performance...and represent an exceptional contribution to State government."

METHOD OF INVESTIGATION:

The Grand Jury subpoenaed the records for these monetary awards of public funds. The CS-23's received covered a period of twenty-one months. The Grand Jury reviewed each CS-23 award and accompanying documents. An interview with the Director, Human Resources Department, was conducted on August 25, 2005. Other municipalities were also contacted to establish whether they had similar awards programs for employees. The following additional city officials were interviewed:

- Leslie Baranco Martin
- Gary Giovanetti
- Steve Bestolarides
- Edward Chavez

FINDINGS:

Awards were made only during the twenty-one month period identified. From our investigation there appears to have been no salary/bonuses paid prior to February 2001 or after November 2003. At no time did there appear to be any public recognition or acknowledgement of the employees' accomplishments warranting these awards. In two instances, awards were made with the recommendation of the Department Head and signed off/approved by the Assistant City Manager. In both instances, the reasons for the awards were clearly documented and substantiated "unusual accomplishment" by the recipients. As previously indicated, the remaining awards appear to have been made for merely performing duties/tasks for which employees have already been compensated in the course of their normal job duties/responsibilities. Some employees may have also received overtime pay in correspondence with the task

or job being recognized in the award/bonus. Many of the awards were given for committee work (i.e., CHAT Team, President Bush visit, American Legion Homicide, Channel District Action Team, and Ambulance Service Committee) wherein the recipient's performance is not clearly substantiated, nor may it be said to have been an "unusual accomplishment." Finally, in making so many awards (over \$123,000) in such a short period of time (twenty-one months), and without clearly supportive substantiation, the appropriateness of said awards may be questioned. Concern over the use of public funds in this manner without any guidelines or procedures and with no apparent oversight raises questions as to the defensibility of the awards. It is understandable that rewarding outstanding performance or "unusual accomplishment" by employees may be a positive action to take; however, perceptions of favoritism or monetary rewards for inappropriate reasons diminish the value of such acknowledgements.

RECOMMENDATIONS:

1. A written policy/procedure should be established by the Human Resource Department and approved by the City Council for recognizing and awarding bonuses to employees who have performed an "unusual accomplishment." That policy should clearly establish the criteria for presenting these awards for which recognition is warranted.
2. Recommendations should be initiated by the Department or Division head and submitted to the Human Resources Department for review to ensure compliance with policy/procedure. The document should then be sent to the City Manager for approval or disapproval.
3. A substantial effort should be made to justify any future awards, delineating and detailing the reason for the awards in accordance with an established policy/procedure. This method will then ensure that public funds are issued judiciously and appropriately to deserving recipients.
4. The City Ordinance should be amended by the City Council to reflect the policy/procedure developed by Human Resources regarding any award.
5. It is recommended that employees be publicly recognized or acknowledged for exceptional performance as recipients of any award.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT

CASE # 0405(A) FOLLOW-UP REPORT: SAN JOAQUIN COUNTY REGISTRAR OF VOTERS

REASON FOR INVESTIGATION:

This is a follow-up to the investigation initiated by the 2004/05 Grand Jury after a tour of the San Joaquin County Registrar of Voter's office (Case #05-04). Officials of the department identified concerns about the department's inability to use the recently-purchased Diebold TSX Touch Screen Voting Machines in the 2004 General election. They also indicated problems related to a lack of space in the department to accommodate operations.

BACKGROUND:

The San Joaquin County Registrar of Voters purchased the Diebold TSX Touch Screen machines for \$6.5 million dollars in 2003 and used the devices for the election in June 2004. However, the Registrar of Voters had to place the machines in storage after this election and were unable to utilize them since that time because of problems encountered in other states related to the use of these machines. California's Secretary of State withdrew the certification for the use of these machines. Therefore the voting machines continued to be held in a warehouse, while the paper ballot process was the mechanism for voting in San Joaquin County. Finally, in March 2006, after extensive additional testing at the state level, the current Secretary of State, Bruce McPherson, certified the Diebold machines for use.

METHOD OF INVESTIGATION:

The 2005/06 Grand Jury met with Deborah Hench, the Registrar of Voters, and the Assistant Registrar of Voters, Austin Erdman. The Grand Jury members served as an official body to test and verify the ballot process for the November 2005 election, still utilizing the paper ballot process as before. The members observed and verified the methodology for counting ballots. The process regarding precinct voting stations was explained and an invitation was extended to the Grand Jury members to follow-up the voting process by serving as observers on election night. Several members spent election night watching the process of counting ballots in the office of the Registrar of Voters.

The Follow-Up Committee also talked with Deborah Hench at a later date to discuss the actions taken since the department had responded to the 2004/05 Final Report.

An invitation has also been extended to the Grand Jury members to observe the use of the new Diebold TSX Touch Screen machines in action for the June 2006 election.

RECOMMENDATIONS FROM THE 2004/05 GRAND JURY:

The 2004/05 Grand Jury made the following recommendations:

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 taxpayers.

Findings by the 2005/06 Grand Jury: The touch screens will be used for the June and November 2006 elections following their certification by the California Secretary of State in March 2006. The machines are currently being tested at the County level, including loading of the ballot information.

2. The County provide the Registrar of Voters Office a facility large enough to accommodate all its needs.

Findings by the 2005/06 Grand Jury: The Registrar of Voters submitted a request for a larger facility; however, the request was denied by the San Joaquin County Board of Supervisors.

3. The Registrar of Voters use the County procedure to request additional staffing.

Findings by the 2005/06 Grand Jury: Additional staffing has been added to the department; the department indicates it has adequate staff now to carry out its operations.

4. The Registrar of Voters submit a request to County Human Resources to conduct a salary survey.

Findings by the 2005/06 Grand Jury: A request for a salary survey was submitted by the department to the San Joaquin County Human Resources Department. The survey is in progress.

RECOMMENDATIONS:

The 2005/06 Grand Jury makes the following recommendation:

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

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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FINAL REPORT

**CASE # 0405(B) FOLLOW-UP REPORT: SAN JOAQUIN DISTRICT ATTORNEY'S
OFFICE**

REASON FOR INVESTIGATION:

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

BACKGROUND:

San Joaquin County provides space in the courthouse for the District Attorney offices, with current occupancy on the second, fourth, and fifth floors. The prior Grand Jury had been concerned with the continuing construction, inadequate space and insufficient furniture available to the staff, while at the same time, the District Attorney's Office had to lease space outside the Courthouse. Construction had been completed on the fifth floor to allow the District Attorney's Office to expand; however, new furniture for this space had not been purchased. The intention was to use the existing furniture from the second floor to furnish the fifth floor; however, the furniture was outdated and not appropriate for its intended use. There was inadequate space to store existing files; many were being stored in the hallways.

METHOD OF FOLLOW-UP INVESTIGATION:

The Grand Jury toured the District Attorney's Office on the second, fourth, and fifth floors of the courthouse.

The 2005/06 Grand Jury Committee interviewed the following persons:

Manual Lopez , San Joaquin County Administrator
Dan Bonnet, Chief Deputy, Administration, District Attorney's Office
Harold Crosby, Management Services Administrator
Scott Fichtner, Chief Deputy District Attorney, Special Operations

RECOMMENDATIONS FROM THE 2004/05 GRAND JURY:

The 2004/05 Grand Jury made the following recommendations:

1. Recommends that San Joaquin County dispose of all worthless furniture, computers, and other equipment stored at the warehouse at the Stockton Airport.

2005/06 Grand Jury Findings: The warehouse at the Stockton Airport continues to house the old furniture, computers and other equipment once owned by the District Attorney, as well as furnishings and equipment from other County departments. There is currently a storekeeper who works for Purchasing and Support Services and is responsible for disposing of the unused items. This disposal process has not been accomplished yet.

2. 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.

2005/06 Grand Jury Findings: The purchase of the new furniture is finalized and installed on the Fifth Floor, with District Attorney staff occupying the space.

FINDINGS:

The 2005/06 Grand Jury has the following additional findings related to its investigation:

1. The renovation of the second floor is ongoing and District Attorney staff expressed concern about the possibility of asbestos existing in the ceilings.
2. The files have been moved for storage to the Cort Tower Building, freeing up the hallways.
3. The Law Library has been relocated, and the fourth floor is waiting to be completed.
4. The fifth floor has no mechanism to communicate with all staff on the floor in the case of emergency. The staff on this floor must rely on staff on the second floor to notify them of emergency instructions.

RECOMMENDATIONS:

The 2005/06 Grand Jury recommends the following:

1. That the Board of Supervisors disposes of all the remaining worthless/unusable furniture and equipment housed in the warehouse at the Stockton Airport.
2. That the remaining staff on the second floor of the District Attorney's Office receive information about the asbestos removal process in that area in order to allay fears and concerns as the County begins its asbestos abatement prior to construction.
3. That a more efficient process for communication between the second and fifth floors be established. In addition, because there is currently no system of communication, such as an intercom, in place on the fifth floor, the Grand Jury recommends that a system for communication be installed. In the event of an emergency; communication within the entire department is necessary. Because of the nature of this department's business and the clients they serve, there is a potential for a dangerous situation; an intercom for communication would enhance the safety and security of the office.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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FINAL REPORT

**CASE #04-05(C) FOLLOW-UP REPORT: SAN JOAQUIN COUNTY HOUSING
AUTHORITY**

REASON FOR INVESTIGATION:

This report is a continuation of the 2003/04 Grand Jury investigation into the San Joaquin County Housing Authority, Case #14-02, and a follow-up to the 2004/05 Final Report. The purpose of the current investigation was to determine whether adequate follow-up occurred within the department following the issuance of the last final report.

BACKGROUND:

The Housing Authority provides housing for low-income individuals and 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 San Joaquin County Board of Supervisors appoints a seven-member Board of Commissioners to govern the operation of this agency. These Board members are responsible for appointing an Executive Director to run the day-to-day operations of the Housing Authority. Approximately 90 persons are employed by the agency.

METHOD OF INVESTIGATION:

The Grand Jury Committee met with Ed Sido, Executive Director of the Housing Authority, and Keith Land, Chairperson of the Board of Commissioners. The recommendations from the 2003/04 and 2004/05 Grand Jury Final Reports were discussed. New policies and procedures, as well as the Code of Ethics and Standards of Conduct, were reviewed by the Grand Jury.

RECOMMENDATIONS REVIEWED FROM THE 2004/05 GRAND JURY:

The 2004/05 Grand Jury recommended the following:

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.

2005/06 Grand Jury Finding: The policy and procedure for Grievance is complete. A copy was submitted to and reviewed by the Grand Jury Committee.

2. The Board of Commissioners interact more with employees to understand their needs and concerns.

2005/06 Grand Jury Finding: The Housing Authority now holds "Town Hall" meetings with an agenda and time posted so that all employees are able to attend. These meetings also include an Open Forum for discussion of employee 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.

2005/06 Grand Jury Finding: Legal processes have been exhausted, leaving no recourse for the agency's recovery of funds for the software.

RECOMMENDATIONS:

The 2005/06 Grand Jury has no further recommendations.

RESPONSE REQUIRED:

No response is required.



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FINAL REPORT

**CASE #04-05(D) FOLLOW-UP REPORT: SAN JOAQUIN PUBLIC GUARDIAN/
CONSERVATOR'S OFFICE**

REASON FOR INVESTIGATION:

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

BACKGROUND:

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

METHOD OF INVESTIGATION:

The 2005/06 Grand Jury Committee met with Scarlet Hughes, Public Guardian/Conservator, on two occasions. Also interviewed by the Grand Jury was Ken Cohen, Director, San Joaquin County Health Care Services. The discussions focused on the recommendations from the 2004/05 Final Report and the Conservator's responses to the report.

RECOMMENDATIONS REVIEWED FROM THE 2004/05 GRAND JURY:

The 2004/05 Grand Jury recommended the Public Guardian/Conservator's Office take immediate steps to accomplish the following:

1. Operate and function as a separate budget unit independent from Behavioral Health as in Sacramento and Stanislaus Counties.

2005/06 Grand Jury Finding: The analysis of this concept was completed and sent to the Board of Supervisors for approval. The department is currently functioning as a separate budget unit.

2. Complete revisions to the Policy and Procedure Manual.

2005/06 Grand Jury Finding: Revisions to the Policy and Procedure Manual are going very slowly. Since the last year's final report, no policies have been completed. The Director is reviewing approximately 300 policies from another agency, some of which will be adapted to the local department without much revision. Thirty-one policies have been identified for revision, with only six near completion (awaiting staff review and input). Three policies which had been specifically identified by the prior jury as needing completion are still only in rough draft. Because the Public Guardian has many other duties, these policies have not been completed.

3. Complete the reconciliation of all accounts in CompuTrust to the Wells Fargo client account.

2005/06 Grand Jury Finding: The files in question (those involved with a prior criminal investigation) have been audited and resolved. In addition, other client accounts which might have been handled by those involved in the criminal activity were also audited with no other problems found. However, other accounts were not included in this audit. In a process started last year to audit the remaining accounts, only 33% have been verified and updated (up to alphabet letter "G"). Since the loss of a position in November 2005, no additional progress has been made in this activity.

4. Add a senior accounting position with managerial experience to ensure bank reconciliations are balanced daily.

2005/06 Grand Jury Finding: A new Accountant Auditor position was added and filled in September 2005; bank reconciliations are being completed daily to ensure that the CompuTrust and Wells Fargo balances are in agreement.

5. Review Representative Payee accounts and identify clients who are independent enough to be their own payee.

2005/06 Grand Jury Finding: The department conducted an informal review of all clients in the Representative Payee program by requesting that case managers identify those clients who could be released from this program. The process resulted in eighteen clients becoming their own payees, with an additional forty-eight transitioned to other payees (family members or private entities). This process reduced the number of representative payees to the current total of 640, with each case manager handling just over one hundred clients.

6. Transition remaining Representative Payee clients to community agencies.

2005/06 Grand Jury Finding: The department conducted an analysis of the feasibility of this recommendation, including a comparison of eight other counties (which found that six of eight had county-operated payee programs). The various

advantages and the disadvantages of switching to community agencies were analyzed, with the final determination that payees have more benefits in a county-run system. In addition, the County's current Board policy is not to supplant County employees by contracting out existing services to private industry.

7. Dispose of all stored vehicles and eliminate the need for long-term storage.

2005/06 Grand Jury Finding: The Inventory and Appraisals process has been completed for all vehicles in storage. However, at this time, no vehicles have been sold because the department has been waiting for approval of the contract with the vendor who will handle the sales. The department is using a vendor with an existing contract with the County to sell County-owned vehicles. Because the vehicles held by the Conservator's Office are owned by individuals, the County's contract with the vendor had to be amended. The next step will be to submit the contract back to the vendor for approval. Only after this step is completed will the sale commence. Completion of the entire step is expected to take sixty to ninety days.

8. Train all users to maximize their competency in operating CompuTrust computer database modules.

2005/06 Grand Jury Finding: Training on the CompuTrust system has been completed for all staff. Additional training is needed to keep staff updated on the CompuTrust system.

FINDINGS:

1. The Public Guardian/Conservator's Office has lost seven staff in the past months, with none of the positions replaced at this time. Apparently some confusion existed about a possible freeze on positions. The department requested conversion of six of the seven positions from part-time to full-time to reduce turnover in the positions. All requested positions have been approved for the 2006/07 budget. Two key positions for filling are an estate property officer and a data entry person (this position has had turnover three times in eighteen months).

2. The department is considering bringing in a student intern from California State University, Sacramento, to assist in writing and revising policies.

3. The position that was established to ensure the integrity of the CompuTrust system has not been filled on a consistent basis, and that process is on hold. Therefore, the department is not using the CompuTrust system to its full capacity.

4. Training in the CompuTrust system is not being conducted on an ongoing basis because of a lack of staff to provide the training. A CompuTrust analyst has just started to update training for selected staff in the department. The department has requested \$5,000 in the current budget plan.

5. The CompuTrust system used by the Public Guardian/Conservator's Office has been in use for at least ten years. The department is reportedly on a state list for an upgrade. The department will report to the Grand Jury by the end of June 2006 regarding the status of the current computer system.
6. Little apparent progress has been made by the Public Guardian/Conservator's Office in response to the 2004/05 Grand Jury Final Report recommendations, although other improvements have been made by the department.
7. The department hopes to hire a Deputy Public Guardian within the next few months.
8. Additional funding will come from the County's General Fund in the next budget year to ensure that needed changes in the department occur.
9. Inventory of the clients' personal property is not on a computer where reports can be created or viewed within the client computer files.

RECOMMENDATIONS:

The 2005/06 Grand Jury makes the following recommendations:

1. Implement a larger training budget so that identified training needs may be met. In particular, current staff need to be trained to produce ad hoc and other special reports from the computer system.
2. Complete the process of adapting policies brought from another agency (thirty-one still remain for revision, with none completed to date). Submit a copy of the updated Policy and Procedures Manual, when complete, to the Grand Jury.
3. Work with appropriate County staff to ensure that key staff positions receive funding in the 2006/07 budget so that the Public Guardian/Conservator's Office can fully protect the conservatees in the program, as well as their estates. The filling of these positions will also provide resources so that staff education may be ongoing.
4. Pursue an upgrade of the CompuTrust computer system to improve its current functionality and improve the potential of its applications for department/client business. The updating of the accounts (currently on hold because of staffing issues) must be completed.
5. Complete the vehicle disposal process no later than three months following receipt of this Grand Jury final report. Develop a policy for disposal/sale of vehicles in a timely manner on an ongoing basis. Provide a copy of the approved policy and procedure to the Grand Jury when complete.
6. Computerize the Inventory List of clients' personal property to allow reporting, viewing, and changes when property is added or removed from the list. The computer should trace

all entries by date, indicating when property is added or removed and to whom the property was released.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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FINAL REPORT

CASE FILE # 0505: CITY OF STOCKTON ENTERTAINMENT PERMITS

REASON FOR INVESTIGATION:

A Grand Jury member brought a concern to the whole body regarding the live entertainment venues and the permit process to hold events. The primary issue was that the permit process was too difficult to maneuver, a problem which often resulted in last minute requirements made of the promoters attempting to hold a live event. The Grand Jury also became aware that the venues for live entertainment were diminishing, and that the establishments that once housed live entertainment continued to close in the Stockton area.

The Grand Jury had concerns about the decline and ultimate closure of entertainment venues within the city. Individual businesses appeared to have difficulties with Stockton's permit process as did organizations/promoters attempting to put on an event that was not sponsored by the City of Stockton. The City of Stockton continued to sponsor/advertise events that would enhance the new downtown area, while events without City sponsorship were few.

A second concern which was brought by the Grand Jury member was related to a perception that certain kinds of music and shows met with additional roadblocks related to the prospective age or ethnicity of the audience expected at the event, such as Hip-Hop, Rock, Rap, etc.

BACKGROUND:

The entertainment permit process in its present form requires a series of steps which require the promoter of an event to visit and to gain approval from several different City departments. No concise and clear set of procedures is defined to assist the organizations or businesses in completing/providing the necessary information to obtain the permit. Although there are knowledgeable people in the City's departments working on various aspect of the process, the information regarding requirements may differ from person to person.

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

A major component of the permit process is the insurance required when a promoter puts on a venue in Stockton, especially when additional vendors are associated. The promoter must provide proof of insurance for the venue. The City requires each vendor participating in the event to provide their own individual insurance. A "Blanket Event" insurance policy that covers the entire event is not accepted by the City of Stockton.

The Downtown Action Team (DAT) has an Entertainment Subcommittee in place to address entertainment issues, including the permit process. Based on material submitted to the Grand Jury, the subcommittee was formed to address the following goals:

1. Create a promoter-friendly atmosphere.
2. Support and promote local/regional arts and entertainment in Downtown
Generate cooperative events in Downtown that focus on the arts.
3. Support the creation of a live/work art district in Midtown/Downtown. Establish quality, safe, live entertainment venues, music, clubs and nightclubs in Downtown for all ages.
4. Establish and support visual arts venues.
5. Establish an art center downtown.
6. Explore legislative avenues for financial support.

METHOD OF INVESTIGATION:

The City of Stockton and surrounding cities, including Lodi, Tracy, and Manteca, were visited and copies of the "Permit Process" used in those cities were obtained. The City of San Diego was called and the Grand Jury committee requested a copy of the permit process in that city based on information received that San Diego was very successful with the permitting system there.

A number of promoters, City officials and Parks and Recreation staff were interviewed. Each promoter interviewed discussed the steps necessary to obtain permits, the difficulties they had encountered, and the reasons that some of the promoters gave up trying to provide entertainment in Stockton.

Related to the City of Stockton's permit process, the Grand Jury interviewed:

- Dino Leonardi, Event Manager, City of Stockton Parks and Recreation Department
- Various Local Promoters
- Dennis Smallie, Lieutenant, Stockton Police Department, assigned to the City Manager's Office
- James Glaser, Director, Community Development Department, City of Stockton

The Grand Jury reviewed:

- City of Stockton Special Event Application
- Chapter 5 of the Stockton Municipal Code addressing the Dance Permit and its regulations.

- Chapter 16 of the Stockton Municipal Code addressing the Temporary Activity Permits.
Draft of Stockton's Special Event Ordinance.
- 2005/06 Schedules of Fees and Charges for the City of Stockton.
- 2006 State of the City Address by Mayor Chavez referencing the need to address Stockton's permit issues; celebrating downtown venues now closed due to permit issues.
- Minutes of the DAT for the year 2005.
- Minutes of the Entertainment Subcommittee of the DAT for the year 2005.
- Permit applications and procedures for:
 1. City of Lodi
 2. City of Manteca
 3. City of Tracy
 4. City of Modesto
 5. City of San Diego
- Applications were reviewed and compared for the following:
 1. Process and complexity for obtaining a permit.
 2. Requirements for Dancing, Insurance, Location, Noise Levels
 3. Street Venues, Concerts, Live Entertainment Venues.

Members of the Grand Jury attended a public forum sponsored by the (DAT), listening to community input about the difficulty of the entertainment permit process and the responses from City staff. The DAT committee board is comprised primarily of City staff and lacks representation by promoters. The committee is a good start, but its focus is mostly downtown, rather than the city as a whole. The DAT representative and staff at the Forum all indicated that the City recognized that the process was currently cumbersome and that the intention was to simplify the steps in the permit process.

FINDINGS:

1. Live entertainment for the City of Stockton has all but vanished, with the exception of the new Downtown Arena, Fox/Bob Hope Theater, Weber Point Events Center, Civic Auditorium, etc. There are, in essence, very few places for the people of Stockton to enjoy live music and dance.
2. The process for obtaining a permit is unnecessarily complex, making it difficult for promoters to submit information on a timely basis and often resulting in an unexpected request of the vendor at a late stage in planning and promoting the event.
3. All promoters of live music venues all had the same response regarding the difficulty of bringing an event into Stockton. Any events which include alcohol and/or the possibility of dancing also require additional approvals.
4. Unless the applicant has started the process months ahead of the event, the thirty (30) day review is not sufficient if questions or problems occur with the application, leaving a promoter with a potential for a monetary loss in relation to advance ticket sales,

advertising, and commitments to entertainers and vendors. The review process at that late date should not have any unanticipated steps or requirements that cannot be answered that late in the process.

5. The "unanticipated roadblocks" at the eleventh hour have resulted in loss of money and reputation for persons in charge of venues and events. They range from smaller weddings, proms, etc., to events with a larger anticipated crowd. The roadblocks are usually associated with insurance, dancing and security.

6. The review suggested that it was more difficult to obtain permits in Stockton because of the complexity of the Permit Process and the specific requirements of the permit application. The findings from comparisons with other cities were clear; the City of Stockton's process is far too complicated and requires additional items the others did not.

7. The common thread among the promoters and the other interviewees was the complexity of the "permit process," with specific entertainment types and safety being a repeated issue. In their individual interviews, all agreed there were too many places to go to get the permits and the consequences were unexpected additional information requests or steps to completion of the process. The question of whether a concert would include dancing was a repeated concern. Venues were planned, and the promoters thought they were covered under an umbrella that allowed dancing, only to be told at a late date that an additional permit was needed.

8. Once the application is completed, there is a thirty (30) day review that is scheduled to take place with Parks and Recreation prior to an event. Interviews with the promoters do not always take place on a timely basis, so that an understanding may be reached about the nature and size of the event.

9. There is no "one-stop" agency to which to submit the permit request and receive advice and further have the permit request checked for errors that might require more specific information or specific permits. The current process fails when a Department does not review the applications in a timely manner, and the department's approval decides the fate of the event.

10. The "need" to have "live music" and "dancing" in this community has been expressed by a number of persons, including those who attended the public forum held by the City of Stockton in recent months. Stockton has many local bands (all types) that have no place to demonstrate their talents or to entertain local residents. If the venue is not held downtown, there are few places to utilize for entertainment events.

11. The City of Stockton's requirement for individual insurance policies by each vendor involved in an event becomes a major stumbling block for the successful completion of an application. This City policy makes it nearly prohibitive for promoters to bring a successful event to Stockton unless it sponsored by the City, where vendor policies are not required. Other cities' permit process documents demonstrate a reliance on the "blanket event" insurance policy acquired by the event's promoter, covering all vendors.

12. There appears to have been a "bias" by the City in not allowing events which are outside the mainstream entertainment track, such as hip-hop, rock, rap, etc. The promoters' efforts are impacted when they attempt to book a venue with diverse types of entertainment. The process is then burdened with additional roadblocks and requirements, i.e., security, insurance and location.

Since the Grand Jury began its investigation last Fall, it has noted some changes being considered by those involved with the City's permit process. In the Mayor's State of the City speech, live entertainment and permit process issues were addressed, with a stated intention to improve the process and increase the number of events locally. The Entertainment Subcommittee of the DAT has expressed a commitment to simplification of the permit process. In addition, the members have noticed an increase in live entertainment events in Stockton over the last few months. The City is to be commended for this forward movement in addressing the needs and wants of the community.

RECOMMENDATIONS:

1. Provide a "one-stop" department with knowledgeable staff to provide a single point of contact for the entertainment permit process. The staff involved in this process should have the authority to accept or deny the application, with input from other departments as needed, and have the expertise to advise the applicant of the specifics of the permit and the time frames for completing the requirements. Applicants should be advised to return to the "one-stop" department for any questions or further instructions. Any other departments involved in the permit process should report back to the "one-stop" department on a timely basis for communication with the applicant.
2. Make the Permit Process user-friendly, with complete written instructions and all forms included, so that the applicant fully understands what is required and how long the process may take. The written instructions for the permit process should detail the requirements for each type of event and its related activities.
3. The DAT's Entertainment Subcommittee should refocus the attention to the city as a whole rather than just to the downtown area
4. Change the insurance requirements for events, consistent with other cities which allow a blanket event insurance policy rather than mandating that individual vendors within an event provide additional policies.
5. Review of the permit application should be timely by all departments involved in the process in order to allow applicants the opportunity to provide additional information, if required, and to not compromise the promoter's event. The length of the review period should be set to reflect the type of venue taking place; a larger event often cannot meet the Entertainment Permit requirements within thirty (30) days if there is a problem.

6. Stockton should conduct Event Permit workshops, orientations and public evaluation sessions regularly during the year.
7. All City staff involved in the Event Permit process should have the same training to ensure that information given to applicants for a permit is consistent.
8. Expand the DAT and Entertainment Subcommittee board membership to include local and minority promoters.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



Grand Jury
County of San Joaquin
Courthouse
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FINAL REPORT

CASE FILE #0605: SAN JOAQUIN COUNTY MENTAL HEALTH CONREP PROGRAM

REASON FOR INVESTIGATION

The 2005/06 Grand Jury received a complaint dated July 7, 2005, alleging that the San Joaquin County Mental Health Services had failed to supervise adequately one of their clients in the California Forensic Conditional Release Program (CONREP). The complaint alleged that while a participant in this program, Wayne Osborg, Jr. went absent without leave (AWOL) from the residence where he had been placed, committing two brutal murders.

The complaint indicates that Wayne Osborg Jr. was placed in the CONREP program under questionable recommendations and was negligently supervised by staff working in the San Joaquin County Mental Health Services CONREP program. The local program functions as a contractor under the California Department of Mental Health, Forensic Services, and agrees to abide by the state regulations.

San Joaquin County Mental Health Services became responsible when San Joaquin Superior Court ordered placement for Osborg in an outpatient program (CONREP) rather than Atascadero, a State Hospital.

BACKGROUND

Wayne Osborg Jr. was placed in the CONREP program, resulting from a Superior Court order on June 18, 2002. The initial recommendation of Kenji Morishige, Licensed Clinical Social Worker, CONREP Community Program Director, San Joaquin County Mental Health Services, based on psychiatric evaluation, was to send him to Atascadero State Hospital. A subsequent evaluation convinced the judge that the outpatient program within CONREP was the appropriate placement.

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

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

1. Incompetent to Stand Trial (1370 PC)
2. Mentally Disordered Offenders (2962 PC or 2970 PC)

3. Not Guilty by Reason of Insanity (1026 PC or Welfare and Institutions Code 702.3)
4. Mentally Disordered Sex Offenders (Welfare and Institutions Code 6316)
5. Sexually Violent Predator (Welfare and Institutions Code 6604)

Most people who are placed in CONREP have already been housed in a State Mental Hospital. CONREP is used as a transitional program so that they can continue to receive mental health treatment, to regain competency to stand trial, and to readjust to living in the community.

CONREP also seeks to provide safety and protection for society by paying close attention to how the patients are progressing in the program. If their behavior poses a danger to the community or to themselves or if they need more secure treatment, the Court may return them to a State Hospital.

Casa Del Sol Inc. is a private residential facility, part of the Community Re-entry Program (CRP), licensed to house CONREP clients. The facility is structured to allow the clients to come and go by way of a sign-in/out sheet. The clients are required to attend meetings, take medication and see their Mental Health providers as directed by their treatment programs. Casa Del Sol has the responsibility to advise CONREP, as a collateral contact, if a client is not meeting the requirements and CONREP staff has the responsibility to advise Mental Health when one or all of these requirements are not met. It is the express responsibility of the Mental Health providers to advise the courts if the client fails.

Patients who are placed in the CONREP program must agree to follow a treatment plan designed by the local Mental Health program and approved by the committing court. The agreement specifies required conditions and behaviors, as well as prohibitions. Failure to abide by the agreement may lead to revocation of the patient's participation in the program and/or committal to an inpatient facility.

San Joaquin Mental Health Services, in conformance with CONREP requirements, has the client review the behavioral standards of the Conditional Release Program and sign a contract before the client is accepted into the program. Major elements of that program include the following:

POLICY:	To have weekly CONREP Staff Meetings
PURPOSE:	To establish a teamwork approach and to provide quality treatment to the Conditional Release Program's Clientele.
COURT REPORTS:	Court reports will be done in a timely manner on a standardized form.
PURPOSE:	To inform the Court of the status of the Conditional Release Program's Clients.
PROCEDURE:	Quarterly Reports: Submitted on a timetable based on the patient's date of entry into the outpatient program. Reports should be addressed to the committing Court or the Presiding Judge of the Superior Court.

ANNUAL REPORTS: Each Court order for outpatient treatment and supervision in CONREP has a duration of one year. In order to determine the appropriateness of continuing the commitment, an annual review is required for all patients who have been ordered (Penal Code 1606) to have outpatient mental health treatment.

CONREP staff is responsible for assuring Court Hearings are held on schedule, assigning a CONREP staff member to work with residential facility staff, such as Casa Del Sol, assessing the level of compliance of the client, providing regular drug tests of clients, and reviewing the conditions of release. The Conditions of Release for Wayne Osborg Jr. were the following:

1. Attend three (3) Group sessions per month
2. Attend Relapse Prevention and Alcoholics Anonymous meetings at Gipson Center once a week.
3. Meet with Dr. Paramjit Gill, psychiatrist, every six (6) weeks for mental assessment, medication prescriptions or renewal.
4. Submit to a home search once a month.
5. Submit to random drug screens twice a month.

CHRONOLOGY:

July 23, 2001: Wayne Osborg, Jr. was arrested for 647 (F) PC, Disorderly Conduct; Under the Influence of an Illicit Drug. A psychiatric evaluation was requested by jail staff.

February 11, 2002: Wayne Osborg Jr. called the Sheriff's Department to report an overdose by his girlfriend. When deputies arrived, they found Osborg also under the influence of methamphetamine, finding the substance and guns in his possession. Osborg was arrested for HS 11377(A) Possession of a Controlled Substance; 48(A) PC, Obstruction, Resisting Arrest by a Public Officer; 12520 PC, (3 counts) possession of Firearm Silencer; and 12280(B) PC, (2 counts), Possession of an Assault Weapon. He was in possession of twenty-seven (27) firearms at the time of his arrest.

February 26, 2002: Dr. Robert Hart, psychiatrist, to assist the Superior Court in determining if he was competent to stand trial, interviewed Osborg. Dr. Hart stated in his report:

"A course of stabilization at a State Institution would probably be required to return him to competence."

February 27, 2002: Wayne Osborg was released from SJC Jail and referred to SJC Mental Health Crisis Unit for evaluation of mental status while awaiting a determination of his status to stand trial. He was transported to the Crisis Unit by his girlfriend. Osborg admitted to methamphetamine use, and his girlfriend said he had been off his medication since January 1, 2002. He was set up with a follow-up appointment.

March 30, 2002: Robert R. Hart, M.D. completed the report of his interview with Wayne Osborg at the SJC Jail on February 26, 2002. His conclusion was that Osborg was incompetent to stand trial (1368 PC). He further recommended that Wayne Osborg be remanded to Atascadero State Hospital for treatment and competency training.

April 28, 2002: Wayne Osborg was arrested for 594 (B)(2)(A) PC, Vandalism less than \$400; 594(B)(a) PC, Vandalism; 242 PC, Battery.; and 422 PC, Threaten Crime with Intent to Terrorize.

May 03, 2002 through June 19, 2002: Osborg was incarcerated in SJC Jail awaiting disposition.

May 20, 2002: Gary L. Cavanaugh, M.D., evaluated Osborg pursuant to 1368 PC. The conclusion of his report was that Wayne Osborg was incompetent to stand trial. He made a recommendation that Osborg would benefit from a longer period of time on antipsychotic medication at possibly a higher dose.

May 30, 2002: Kenji Morishige and Jerry Silva of the CONREP program conducted an assessment of Osborg. They made the following findings and recommendations in a letter submitted to the Court:

"Mr. Osborg's history of substance abuse, mental illness, and non-medication compliance is evident. It is recommended that Mr. Osborg be remanded to the Department of Mental Health at Atascadero State Hospital for care, treatment, and competency training."

"Due to his history of non-compliance and substance abuse, Mr. Osborg is at high risk of re-offending. His treatment should be focused on 100% compliance. Any non-compliance should result in revocation of his outpatient treatment and transferred (sic) to Atascadero State Hospital."

June 17, 2002: The Court ordered a second evaluation of Osborg for consideration of possible outpatient treatment. Kenji Morishige, LCSW, CONREP Director, and Maureen Weddles, MA, Forensic Clinician, evaluated Osborg. They recommended that outpatient treatment in the CONREP program would be appropriate if he agreed to the terms and conditions of his treatment plan. They also indicated that they felt he was a high-risk client for re-offending.

June 18, 2002: There was a recommendation that he remain in custody until placement in Narrow Gate, a clean and sober board and care facility, was arranged.

June 20, 2002 to December 1, 2002: Osborg was court ordered into an outpatient status under supervision by CONREP and placed at Narrow Gate, where he apparently remained compliant with the conditions of his treatment plan.

June 25, 2003: Osborg was placed in the Psychiatric Health Facility (PHF) unit after becoming disoriented, depressed, and mentally unstable after overdosing on his medications, while living with his girlfriend. It was felt that he needed treatment for mental health decompensation and because he was considered a danger to self and others. At this time Kenji Morishige presented a letter to the court, which stated in part:

"This is to inform the court that Mr. Osborg has been noncompliant to CONREP program and required hospitalization as a danger to himself. Mr. Osborg had taken an overdose of his medications (this is the second time), within the past quarter. Recommendations: Mr. Osborg be remanded in custody (San Joaquin County Jail) and be remanded to the Department of Mental Health at Atascadero State Hospital for care, treatment, and competency training."

June 26, 2002: Mr. Osborg signed the terms and conditions for outpatient treatment with the CONREP program.

July 7, 2003: Mr. Osborg was ordered by the Court to be incarcerated in the San Joaquin County Jail until a decision could be made for further treatment and competency training.

July 22, 2003: After consideration of information from Osborg's attorney, the District Attorney's Office, and the CONREP staff, the Court decided to release Osborg from the San Joaquin County Jail and to assign him back into the CONREP program with the decision made to place him at Casa Del Sol, a live-in care home, where he would be allowed to sign in and out. He was asked to stay away from his girlfriend, because of the negative impact of that relationship upon him.

December 24, 2003: Mr. Osborg continued to live at Casa Del Sol, and on this date he was allowed to leave for a Christmas holiday, with the permission of CONREP staff based on his indication that he would be staying with his father. He also told the staff at Casa Del Sol he would be with his father, to return the night of December 28, 2003.

December 27, 2003: Wayne Osborg was stopped by the Stockton Police in the early morning hours, because of a call from a homeowner regarding a prowler at a home in an area near his former residence. The Officer ran a check on him and found he was a CONREP patient, based on information in the State Department of Mental Health Alert Program. The officer called the state number, which then called the County Mental Health Program. After discussing Osborg with the local Mental Health representative, the officer released Osborg after being told he was not wanted by Mental Health.

December 28, 2003: Osborg did not return to Casa Del Sol as scheduled by 9:00 P.M. He was considered to be AWOL.

December 29, 2003: Casa Del Sol staff notified Osborg's father (leaving a message) and Mental Health staff that Wayne Osborg had not returned to the facility as agreed. Mental Health's CONREP program staff did not request a timely warrant based on this information

on this day. It was later learned that Osborg did not stay with his father during this period of time, as had been approved by CONREP staff.

December 30, 2003: CONREP staff contacted Osborg's father, finding him to be resistant to providing information about his son. However, CONREP believed that Osborg was probably with his girlfriend, so they provided that information to the Stockton Police Department. Osborg's father reported that his son had not had a good day the day before, appearing to be delusional. CONREP staff were in the process of requesting a warrant for Osborg's arrest. At this time, CONREP staff felt that Osborg was violent and dangerous if not taking medications. Mr. Osborg was arrested for a double homicide that occurred on or about December 27, 2003, as well as for possession of methamphetamine; he was later convicted of the two murders.

METHOD OF INVESTIGATION:

Regarding the Mental Health Community Health Program/CONREP and the services provided to Wayne Osborg, Jr., the Grand Jury interviewed the following persons:

- Kenji Morishige, LCSW, CONREP Community Program Director, San Joaquin County Mental Health Services.
- Wayne Uecker, Forensic Clinician for San Joaquin County Mental Health Services.
- Calvin Parker, Administrator of Casa Del Sol (Residential Facility).

The Grand Jury Committee toured Casa Del Sol, the facility that housed Wayne Osborg, Jr. The methods of supervision and the responsibilities of the program providers were discussed and reviewed. The sign-in/out slip was reviewed. In addition, the file, reports and records for Wayne Osborg, Jr., were evaluated and checked for thoroughness.

The Grand Jury also reviewed:

- File and records from San Joaquin County Mental Health and CONREP
- San Joaquin Superior Court Hearing records.
- Records from Casa Del Sol.
- Stockton Police Department Crime Reports.
- California Department of Mental Health CONREP Policy and Procedure Manual
- San Joaquin County Mental Health Services CONREP Policy and Procedure Manual.
- Special Incident Report submitted by San Joaquin County Mental Health Services CONREP to the State of California Department of Mental Health and response back to Mental Health.

FINDINGS:

1. During all of Osborg's court appearances, the San Joaquin County Public Defender's Office or a private attorney represented the client. The People of the State of California were represented by the San Joaquin County District Attorney's Office and by CONREP staff. Each of the three entities provides a separate recommendation to the Court regarding the disposition of the client.
2. CONREP staff are mandated to report periodically to the Community Program Director the treatment progress of court-ordered participants in the CONREP program. In addition, quarterly reports are also submitted to the Court regarding the progress and compliance of the client.
3. The CONREP Community Program Director twice made the recommendation for Wayne Osborg Jr. to be sent to Atascadero State Mental Hospital based on psychiatric reports, past criminal behavior and his substance abuse problem. The Court studied the recommendations and ordered Wayne Osborg Jr. placed into the CONREP program, first in June 2002 and again in July 2003. The Community Program Director agreed to this community placement. Based on the information reviewed, the reasons for this decision could not be determined.
4. The San Joaquin Mental Health Services/CONREP Forensic Clinician, who was the lead caseworker for approximately two years, in charge of supervising Wayne Osborg Jr., described him as resistant to control from authority. The caseworker had some misgivings regarding Wayne Osborg being placed in CONREP; however, it was his belief that Osborg complied with his conditions of supervision quite satisfactorily. He indicated that he was surprised that Osborg would commit acts of murder.
5. Wayne Osborg Jr. was initially placed in the CONREP program in June 2002. In June of 2003 Mr. Osborg was ordered by the court to continue the CONREP program for another year. He was also ordered not to have any relationship with his girlfriend, who was felt to be a detrimental influence in his treatment. Except for occasional hygiene lapses, depression, and non-communication, CONREP staff felt that Osborg was complying with his treatment program.
6. In the CONREP program, Casa Del Sol and Osborg's father are "collateral contacts," required to provide regular information to CONREP regarding the compliance of clients in the program. Based on the information collected from the collateral contacts and the program assessments of the client's compliance with the treatment program, the staff placed trust in the client concerning his activities and whereabouts, etc.
7. The Administrator of Casa Del Sol indicated that Mr. Osborg appeared to comply with the facility rules, with the exception that he did not consistently complete the sign in/out sheet. It was also noted that on two occasions when he was allowed to spend a weekend with his father, he failed to take along his medications. It was in the sixth month of Osborg's stay at Casa Del Sol that he was allowed to go on a Christmas furlough from December 24, 2003 until 9:00 p.m. on December 28, 2003. Osborg informed the staff that his father would be picking him up; however, no one observed the father arriving. When

he did not return, Casa Del Sol staff called his father to check on Osborg's whereabouts and called the CONREP program to notify them of his AWOL status; the lead caseworker was notified the morning of December 29th.

9. During his participation in the CONREP program, Osborg failed on several occasions to comply with the requirements of his treatment plan, including substance abuse, possession of firearms, and medication non-compliance. Despite these serious issues, he was continued in the program. In addition, urine specimen collection continued on a random basis with no increased level of surveillance or observation of urine specimen collection, as outlined in the state's procedure manual.

10. Mr. Osborg was noncompliant in June of 2003, when he decompensated severely, becoming depressed and overdosed on his medication. He was issued an order to stay away from his girlfriend, but he continued to see her and to stay at her residence. After this episode, he was placed at the Casa Del Sol facility, where he appeared to conform with facility rules.

11. In November 2003 Mental Health reports to the Court indicated he had not been taking his medications on his weekend visits to his father's home, with at least two episodes of non-compliance.

12. When the State Mental Health Program's Alert system, contacted the On-Duty Officer at Mental Health, that officer talked with the police officer detaining Osborg. As a result of the contact, there was no action to notify or discuss the case with CONREP staff or any action to have the police detain Osborg, despite his participation in the CONREP program and his suspicious acts on the night of December 27, 2003, the reason for which the police detained him. Based on information reviewed, the Grand Jury could make no determination about the impact of this failure to detain Osborg because the timing of the murders is inconclusive.

13. CONREP staff was not available to take a telephone call from the Stockton Police Department on December 27, 2003, despite policy which indicates staff on duty or on call twenty-four hours a day, seven days a week.

14. The CONREP program has a case load of thirty-six (36) clients, whereas the maximum case load, based on recommended staffing ratios, should be twenty-seven (27).

15. When the decision is made to commit a person to Atascadero who is incompetent to stand trial, the wait for admission is often two months or more, causing the clients to be housed in the County Jail.

16. CONREP staff relied on information from an unreliable collateral contact (the father) despite allowing the client weekend leaves to stay with his father. No verification was done on a regular basis to ensure that the client was staying where he agreed to stay.

17. The CONREP Program Manual of the San Joaquin County Mental Health Services provided to the Grand Jury contains policies, which are all dated July 1, 1996, and are approved by the Mental Health Director. Included in the materials were revisions of many of the policies dated July 1, 2004, some of which contain crossed out sections and handwritten entries. These policies contain no approval signature. In addition, the California Department of Mental Health CONREP Manual has updated policies and procedures, some as recent as August 2005. It appears that the County's Manual is out of date. Of special note, the County's Manual contains no policy for "Non-compliance"—based on CONREP's policy 1340.26. Another policy contained in the July 1, 2004 revision—"Special Incident Reports"—is blank.

RECOMMENDATIONS:

The 2005/06 Grand Jury recommends the following:

1. Based on this case as a model, Mental Health Services staff should present their evaluations of the competency of felons to the Court and stand by them when recommending that a potentially dangerous person (who in this case had already failed in the CONREP Program once before) be committed to a State Hospital such as Atascadero, before allowing an outpatient program. If in disagreement with the Court's decision, Mental Health staff should seek legal remedies such as a writ to the state's Court of Appeals.
2. A Deputy District Attorney should be assigned full-time to specifically handle Penal Code Section 1370 cases to assure they are well-versed in the issues involved with mental health patients with criminal histories, as well as consider the recommendations of Mental Health Services staff in court. This coordination would further protect the community.
3. There is a determinate need for the CONREP staff to restructure procedures for client furloughs when they are residents of various facilities. This change would ensure that clients are accounted for and that CONREP staff know their whereabouts at all times. The procedures should be expanded to include verification from the party being visited, prior to allowing a visit, and follow up to assure the client is not breaking the contract with CONREP. The Collateral Contact, the person being visited by the client, should be thoroughly investigated to ensure that he or she is a reliable and responsible party, who will honestly report back to the CONREP staff.
4. Include in the Policy & Procedures: That the residential facility keep comprehensive records of clients they serve. It would serve the community and Mental Health to have records that are concise and verified regarding the patient visits, doctor appointments, and substance abuse counseling. A verbal report back to Mental Health is inefficient when working with Mental Health felons, particularly when reports are made only once a month. Any issues of non-compliance need to be reported to CONREP immediately for appropriate follow-up by CONREP staff. Incidents such as the Osborg case are rare, but

with better record keeping the potential for violent criminal behavior might have been recognized earlier.

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

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

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

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

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

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

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT
CASE #0705: SAN JOAQUIN COUNTY MENTAL HEALTH SERVICES AND
SAN JOAQUIN COUNTY OFFICE OF EDUCATION

This final report covers three separate incidents which came to the attention of the Grand Jury through citizen complaint and other sources. For ease of understanding, the incidents are handled separately here.

Incident #1

REASON FOR INVESTIGATION:

On November 20, 2005, a concerned citizen filed a complaint with the 2005/06 Grand Jury reporting that after finding a large amount of mental health records on Gilchrist Avenue in East Stockton, he had contacted San Joaquin Mental Health Services (MHS) and left information with the telephone receptionist. Approximately a week later, he noted that a "significant portion" of the records had been scattered by the wind and apparently no one from MHS had come to collect the records. He reported that he then made a personal visit to MHS and spoke to an "intake counselor," someone he assumed had authority and would recognize the significance of his information. Approximately one week to ten days later, the volume of records had diminished, primarily because of scattering from the wind, but there were still records remaining in the roadway. At that time, he discussed the matter with a nearby homeowner who indicated that she also had contacted MHS about the records. Sifting through the records, he extracted two pages that were clearly confidential, and he again contacted MHS. On this occasion he spoke with Becky Gould, Deputy Director, MHS, who also served as the Privacy Officer for the agency. At her request, he faxed the two pages he had collected. Following this interaction, MHS staff investigated the dump site and retrieved the remaining records they could find, along with piles of miscellaneous garbage.

BACKGROUND:

San Joaquin County Mental Health Services is an agency which provides both inpatient and outpatient mental health services at the main facility on California Street, as well as at satellite locations throughout the County. The services are comprised of many specialized programs which focus on the particular needs of those suffering from mental illness. One of the many programs is the Homeless Outreach and Engagement Response Team (HEART) program. The records found by the concerned citizen on Gilchrist Avenue were case workers' files from that program. The records outlined client plans, coordination plans, and/or client agreements that contained client names and protected health information.

METHOD OF INVESTIGATION:

Regarding San Joaquin County Mental Health Services' handling of confidential records the Grand Jury interviewed the following persons:

- A concerned Citizen
- Becky Gould, Deputy Director and Privacy Officer, SJC Mental Health Services
- Joseph Chelli, Human Services Agency Director
- Marla Ford, SJC Mental Health Services Programs Manager
- Bruce Hopperstad, SJC Mental Health Services Director

The Grand Jury reviewed the following documents:

- Fact Sheets from US Department of Health and Human Services, "Privacy of Patient Health Information";
- California Health and Safety Code sections 123100-123149.5 which relate to confidentiality and protection of patient records;
- California Health and Safety code sections 130300-130317 which outline implementation of the Health Information Portability and Accountability Act (HIPAA);
- California Civil Code sections 56.10-56.16. This section of California law outlines the specific provisions that protect records, and also includes the destruction of records;
- SJCMHS policy #106.0003.0 titled "Disposal and Destruction of Protected Health Information";
- Log of SJCMHS 2005 Investigations: HIPAA Complaints or Concerns about Confidentiality;
- SJCMHS Complaint Filing Form outlining the investigation of the Gilchrist Avenue incident;
- SJCMHS Breach of Confidentiality Policy;
- SJCMHS Privacy Officer Responsibilities.

FINDINGS:

Mental Health employees did not respond in a timely manner to the citizen's report that patient records were found in a public place.

1. The Grand Jury found that Mental Health Services staff are unclear on how the confidential files came to be dumped at the Gilchrist Avenue site. The assumption by Mental Health services is that an employee was moving records from one site to another. Somehow she kept some of this information, and it ended up in her personal trash which was dumped along Gilchrist Avenue. That employee no longer works for the agency.

2. Prior to this incident, Mental Health Services did not have policies and procedures in place for relocating confidential records from one site to another. Currently, MHS policy requires that only a county vehicle may be used for transporting records.
3. When first notified by the concerned citizen that he had found confidential records in the street, Mental Health Services staff did not log the information nor did staff act upon the report. MHS staff recalled that a man had brought in the records, as had been reported by the complainant to the Grand Jury. Because the staff member determined that the records were indeed confidential, he shredded them. This staff member did not report the incident to anyone else at MHS. Specifically, the Privacy Officer was not informed about the incident nor was she told that more records were still at the site.
4. Mental Health Services staff made several trips to the site following receipt of the faxed records, finally ensuring that all the retrievable records were removed and secured from further disclosure.
5. Mental Health Services staff has identified a need to hire a Registered Health Information Administrator and technicians to provide everyday supervision and management of records.

RECOMMENDATIONS:

1. Mental Health Services should hire staff to manage and enhance protection of records.
2. MHS staff should install tighter controls of records. Records should not be taken off premises unless authorized, and their removal should be documented by the records manager.
3. Staff members notified of an incident of breached confidentiality regarding records must take that report seriously and take immediate action to secure the breach. The incident and its circumstances must be reported to the employee's immediate supervisor, the Attendant on Duty (AOD), or the HIPAA Privacy Officer.
4. MHS staff should train all new employees and retrain MHS employees annually in HIPAA regulations and MHS policies regarding patient records.
5. All staff must sign an Acknowledgement Form indicating training in HIPAA has been completed and that policies are understood.
6. All staff must review and follow the policy regarding "Unusual Occurrence (incident) Reports."
7. Staff must not shred information without approval from the person in charge of record disposal and destruction.
8. All staff must review and follow the policy regarding logging of all calls on a Daily Crisis Log; the use of this log includes breaches of confidentiality regarding patient records.

Incident #2**REASON FOR INVESTIGATION:**

While dropping off recyclables, a concerned citizen discovered confidential mental health records in a local recycling center in downtown Stockton on December 17, 2005, and alerted the County Administrator's Office. According to the citizen, private patient files and other documents were left in plain view in a drop-off area at Recycled Fibers of California at 800 West Church Street in Stockton.

BACKGROUND:

San Joaquin County Mental Health Services has utilized a private Stockton firm, Delta MicroImaging, Inc., for microfilming and destruction of records for approximately forty years. This activity was established by a purchase order which has been automatically renewed each year through County Purchasing.

Confidential Mental Health records were found at a public recycling center by a concerned citizen. The patient files had been left in plain view at the Recycled Fibers of California location on West Church Street in Stockton. The citizen who found the documents notified the County Administrator's Office. Because it was initially believed that the records were from the Human Services Agency, the Director was notified. After reviewing the records, he determined that they were not from his agency but from Mental Health Services. The files were secured and transported to the County Records Center that evening. The records were confirmed to be from MHS and were part of a group of records which had been given to a private firm, Delta MicroImaging, for microfilming and destruction of the originals through a purchase order arrangement. Once Delta MicroImaging had finished its task, the records were taken to the Recycled Fibers of California location for destruction.

METHOD OF INVESTIGATION:

Regarding San Joaquin County Mental Health Services' handling of confidential records, the Grand Jury interviewed the following persons:

- A concerned Citizen
- Becky Gould, Deputy Director, SJC Mental Health Services
- Joseph Chelli, Human Services Agency Director
- Marla Ford, SJC Mental Health Services Programs Manager
- Bruce Hopperstad, SJC Mental Health Services Director
- Suzie Bandle, General Manager, Delta MicroImaging Inc.

The Grand Jury obtained and reviewed:

- Fact Sheets from US Department of Health and Human Services, "Privacy of Patient Health Information";

- California Health and Safety Code sections 123100-123149.5 which relate to confidentiality and protection of patient records;
- California Health and Safety code sections 130300-130317 which outline implementation of the Health Insurance Portability and Accountability act (HIPAA);
- California Civil Code sections 56.10-56.16. These sections of California law outline the specific provisions that protect records and also include the destruction of records;
- SJCMHS policy #106.0003.0 titled "Disposal and Destruction of Protected Health Information";
- Log of SJCMHS 2005 Investigations: HIPAA Complaints or Concerns about Confidentiality;
- SJCMHS Breach of Confidentiality Policy;
- SJCMHS Privacy Officer Responsibilities.

FINDINGS:

1. For approximately forty years, Mental Health Services had utilized and paid Delta Microlmaging Inc. for their services under a purchase order. Because this arrangement superceded the time when HIPAA guidelines were implemented in 2001, and the purchase order was automatically continued year after year, the HIPAA requirements for Delta Microlmaging were overlooked by Mental Health Services.

2. A memorandum to Purchasing staff at MHS from Bruce Hopperstad in December 2002 requested that the Business Associate Contract Provision apply to all new and continuing agreements with vendors for services. The process utilizes a "Business Associate Assessment, Treatment Flow Chart" to identify those entities which are covered under the Business Associate provisions of HIPAA regulations. That flow chart clearly identifies that Delta Microlmaging falls under this requirement.

3. Mental Health Services used a purchase order with Delta Microlmaging to microfilm and dispose of the confidential records. This purchase order does not formally address the appropriate method or means for the destruction of records.

4. Delta Microlmaging was not identified by Mental Health Services as a Business Associate, as required by the HIPAA regulations, and therefore they were not brought under HIPAA compliance. With Delta Microlmaging as a Business Associate, MHS was responsible for ensuring the company complied with the privacy standard. MHS was also responsible for taking action when the company breached the privacy standards.

5. Mental Health Services staff did not supervise the destruction of the confidential files which were later found in a dumpster in public view.

6. HIPAA provides standards for safeguarding the privacy and security of health information including destruction of records. These federal rules directly apply to all agencies and private offices that provide mental health services.

7. Through the years, the process utilized by Delta MicroImaging for the destruction of the records, once microfilming was completed, was to transport the records to Recycled Fibers of California for liquefaction. Because of a change in the local operations, liquefaction was no longer carried out in Stockton; instead, records were transported to the San Jose branch of the company for this final process.

8. Mental Health Services is no longer using the services of Delta MicroImaging.

RECOMMENDATIONS:

1. If at all possible, microfilming and shredding of records should be done in-house to insure confidentiality of all mental health records.
2. Mental Health Services should have a custodian of records. This person would assure that transportation, copying, and destruction of all confidential records comply with policy and procedures.
3. Mental Health Services staff should observe directly the destruction of records.
4. Mental Health Services staff should review all existing and new contracts and agreements with outside vendors to identify those which fall under the Business Associate provisions of the HIPAA regulations.
5. Mental Health Services staff should train all contractors and purchase order vendors in the privacy standards and hold them accountable under HIPAA regulations. With all business associates, require a written contract or purchase order with sufficient information regarding confidentiality of records.
6. Mental Health Services staff should take appropriate action when a breach of the Business Associate contract occurs.
7. Mental Health Services staff should keep a log of any reports made regarding a breach of confidential records procedures required under HIPAA.

Incident #3

REASON FOR INVESTIGATION:

On December 29, 2005, a concerned citizen discovered some Human Services Agency CalWorks records near an apartment complex on Benjamin Holt Drive in Stockton. The citizen who found the records reported the discovery to a local television station, Channel 19 Univision. The documents contained names, addresses and social security numbers of Cal Works clients who were being assessed for job placement by staff of the County Office of Education.

BACKGROUND:

The San Joaquin County Office of Education (SJCOE) oversees fifteen school districts within the county providing support services for educational programs. Each school district is governed by its own elected School Board. In addition to the Superintendent's

office and its general oversight of the local school districts, the department provides business services and a variety of student programs and services.

CalWorks is California's Welfare to Work program. The Human Services Agency (HSA) has a relationship with SJCOE as a subcontractor who assists clients, directing them toward meaningful employment and transitioning them off welfare.

According to testimony, a temporary employee transported confidential material in her private car from one site to another. Some time later, the records were found in a dumpster by a person who notified Channel 19 Univision television.

METHOD OF INVESTIGATION

The Civil Grand Jury interviewed the following persons:

Joseph Chelli, Human Services Agency Director
Karen DePrater, Human Resources Director, SJCOE
Mick Founts, Assistant Superintendent, SJCOE

The Civil Grand Jury reviewed the following documents:

- Fact sheets from US Department of Health and Human Services, "Privacy of Patient Health Information";
- California Health and Safety Code sections 123100-123149.5 which relate to confidentiality and protection of patient records.
- California Health and Safety Code sections 130300-130317 which outline implementation of Health Insurance Portability and Accountability Act requirements.
- Civil codes section 56.10-56.16. This section of California law outlines the specific provisions that protect records and also includes the destruction of records.
- Policies and procedures of the Human Services Agency and the San Joaquin County Office of Education regarding the storage, transfer, disposal and protection of confidential records.

FINDINGS

1. Staff from the County Office of Education obtained the records in question from Human Services Agency staff (who had obtained them from the television station). They verified that they were CalWorks client information sheets which had been originated at the Human Services Agency and transferred to a satellite office of the San Joaquin County Office of Education.
2. The office which had housed these records was being closed, and the records were being transported to another location. The records which were the focus of this investigation had been slated for destruction because the clients had not appeared for the assessment services. The

part-time employee who transported these records in her private car did so without instruction or authorization and without the knowledge of her supervisor.

3. The employee did not follow policy and procedures according to SJCOE administrative regulations protecting confidential records. The employee did not take all of the records to the new location, leaving some in the trunk of her car, which was later sold. When the new owner discovered the records in the car, he requested that the records be retrieved; however the employee did not take action on this request. Therefore, the new owner of the car disposed of the records in the dumpster near his home.
4. There was no method and procedure in place to account for these records, nor was there a comprehensive SJCOE policy for relocating confidential files. Since the incident, SJCOE policies and procedures have been revised in respect to the protection and relocation of records.
5. A tracking form has since been added to the revised policy and procedure.
6. At the time of the incident, staff orientation regarding confidential records was done in the employee's department rather than through a centralized Human Resources process. Since the incident, SJCOE administrative staff report that all new staff sign an acknowledgment form indicating they have received training in the handling of confidential records and that they understand their responsibilities regarding these records.
7. The part-time employee responsible for the mishandling of these confidential records no longer works for the San Joaquin County Office of Education.

RECOMMENDATIONS:

1. Designate a custodian of records so that all confidential records are accounted for at all times.
2. Ensure that all staff follow policies that were revised on January 3, 2006, regarding protection and relocation of confidential records.
3. Train all employees, including part-time employees, on the new policy and procedures. Provide for annual retraining on these policies.
4. Follow through with appropriate disciplinary actions for employees who fail to comply with policy and procedures.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors (for incidents #1 and #2) and the Superintendent of Schools, County Office of Education (for incident #3) shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

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

a. The respondent agrees with the finding.

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

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

a. The recommendation has been implemented, with a summary of the action taken.

b. The recommendation has not yet been implemented, but will be with a time frame for implementation.

c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.

d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT

CASE # 0805 / SAN JOAQUIN COUNTY HEALTHCARE SERVICES

REASON FOR INVESTIGATION:

The 2005/06 Grand Jury investigated a complaint concerning the Request for Proposal (RFP) surrounding the awarding of the Ambulance contract by the County of San Joaquin Board of Supervisors (BOS). The complaint alleged that San Joaquin County Health Care Services Agency and its division, Emergency Medical Services (EMS), failed to adhere to correct and specified procurement processes in recommending advanced life support (ALS) ground ambulance services to the BOS via the RFP process. Specifically, the scoring and weighting of the RFP applications submitted and the makeup of the RFP review committee were brought into question. In addition, an allegation about a possible conflict of interest was raised pertaining to the RFP review committee member composition and the award of the contract to American Medical Response-West (AMR).

BACKGROUND:

San Joaquin County is served by seventeen fire departments. Three of the fire departments provide ALS services and fourteen provide basic life support service. In the late 1970s San Joaquin County was divided into eight ambulance zones providing service to Lodi, Stockton, Tracy, Manteca/Lathrop, Ripon and Escalon. All emergency ambulance service dispatching within the county was done by the Stockton Fire Department's regional dispatch center.

San Joaquin County submitted its "EMS Transportation Plan" to the State of California EMS Authority for approval, which was granted. This approval was required because of the County's intention to replace marketplace competition with an exclusive operating area.

The County of San Joaquin thereafter invited experienced and qualified bidders to submit proposals to provide Emergency ALS ambulance services in three zones (Lodi/Zone A; Stockton/Zone B; and Tracy/Zone C) via an RFP. Bidders could elect to bid on all three zones or individually bid upon any combination of zones. The successful bidder was granted a contract for exclusive market rights as provided under Section 1797.224 of the California Health and Safety code for emergency ambulance service for a five year period, with a five year option.

- A bidder's conference was held on August 4, 2005.
- Bid proposals and submittals were due on September 22, 2005.

- The Proposal Review Committee met on October 12-14, 2005.
- On October 20, 2005, the Director, Health Care Services Agency, made an announcement identifying the selected bidder.
- October 27, 2005 was the final date for submitting protests; two letters of protest were submitted on this date.
- November 15, 2005 was the final recommendation of award to the BOS by the Health Care Service Agency Director and Declaration of Intent to contract by BOS with a performance security bond due upon signing of contract.
- January 17, 2006 the final negotiated contract was completed and approved by the BOS.
- Services on the contract are scheduled to begin on May 1, 2006, at 8 a.m.

METHOD OF INVESTIGATION:

A review of the RFP for the Ambulance contract was conducted by the Grand Jury. Several of the bidders' submittals, protest letters and responses and supporting documents were also reviewed. The video recording of the BOS meeting of November 15, 2005 was reviewed. The Grand Jury also visited the AMR Dispatch Center in Salida. In addition, interviews were conducted by members of the Grand Jury of the following people:

Kenneth B. Cohen, Director, Health Care Services Agency
 Dan Burch, EMS Administrator, San Joaquin County Emergency Medical Services
 Dave Hafey, Deputy Fire Chief, City of Stockton Fire Department
 Michael D. Parker, Priority One Medical Transport, Inc.

FINDINGS:

Following an extensive review, the Grand Jury has determined that the RFP process and award of the Ambulance contract to AMR was consistent with the RFP. The members found no violations of policies and procedures by individuals involved with the RFP process, by the Proposal Review Committee or in the award of the contract by the BOS and/or county representatives.

Two of the bidders submitted protest letters regarding the decision to award AMR the contract by the BOS. In the responses submitted by the Health Care Services Agency many of the explanations were generic, vague, and nonspecific (i.e., "The information submitted by AMR-West meets the requirements of the RFP").

The language of the RFP, with regards to the evaluation and scoring process, could have been more specific. The RFP stated that the "Proposal Review Committee will develop a rating system that may or may not contain a point system. Each reviewer shall rank each proposal according to the individual reviewer's judgment as to the relative merits of the competing proposals" (Section 2.10 of RFP). No formal ranking/scoring system was used by the RFP

review committee; therefore no documentation of the scoring process was saved or available when later requested.

The BOS, through the RFP process, appears to have adhered to policies and procedures. Specifically, the use or non-use of scoring systems in the rating process, the selection by the review committee, and maintenance of all records/documents for public review are all critical elements in maintaining the integrity of this process. In RFP section 2.11, Waiver of Requirements, the County reserves the right to waive any RFP requirements it deems in the best interest of the County, which therefore provided the review committee the ability to alter the rating process. In submitting their applications, the bidders accepted the provisions of the RFP.

Additionally, each member of the Proposal Review Committee signed a Conflict of Interest Statement which clearly certifies that they were not employed, served as an officer, or held an equity interest in any of the companies/bidders. Given the unique nature of the professionals comprising the Proposal Review Committee involved in the RFP process and their knowledge about ambulance service, the perception that there may be a conflict of interest is present and presumed by some. AMR is a nationally recognized medical response provider which interacts with a large number of professionals in related fields throughout the state. Some cursory contact with AMR could result in the normal course of business, falling well short of presuming a conflict of interest. The Grand Jury members found no evidence of conflict of interest in the composition of the review committee or the rating process.

As a result of this process and the awarding of the ambulance contract to AMR, the Grand Jury has a heightened awareness of the issues in public safety and services related to this change in ambulance services. Questions have been raised during this investigation regarding the number of ambulances which will serve the County under the new plan, the functioning of an out-of-county dispatch center, and the response time to calls for emergency medical services. These questions cannot be answered at the present time. The investigation of the Grand Jury was focused upon the RFP process as it pertains to policy and procedures only and not upon the feasibility/viability of the services that may be delivered. Next year's Grand Jury may elect to assess the impact of this change on the health and safety of county residents.

RECOMMENDATIONS:

In an effort to avoid or mitigate misunderstandings with future RFPs, it is recommended that:

1. A scoring system be clearly defined in advance to assist in properly and thoroughly evaluating applications and in adhering to the selection process.

2. The scoring system/sheet be included as part of the supporting documentation in the RFP.
3. Said scoring sheets be retained as part of the evidentiary chain in the event of challenges or appeals in awards.
4. The review committees receive clear and precise training/information as to their role and responsibilities in reviewing and rating applications.
5. The proposal review committee members examine each proposal/application independently so as to avoid the appearance or implication of impropriety in making a recommendation for selection. Once all reviews have been completed, an examination of all recommendation/selections should be made by the selection committee in an open forum with an impartial County representative present.
6. The selection/award process should be formally developed by the selection committee and presented in writing, along with all supporting documentation.
7. In the interest of disclosure and openness, responses to complaints might have been less dismissive. Responses to appeals/challenges submitted by bidders who were not selected should specifically detail the reason(s) for each item/objective raised and avoid a generic response without substantiation.
8. The BOS should direct that an analysis of the adequacy of the ambulance service at six months and twelve month intervals be conducted (November 2006 and May 2007), submitting a copy to the 2006/07 Grand Jury.

RESPONSE REQUIRED:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.



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FINAL REPORT

**SAN JOAQUIN COUNTY DETENTION CENTERS AND LAW ENFORCEMENT
AGENCIES**

The 2005/06 Civil Grand Jury carried out its required duties during its term, including mandatory tours of detention centers and law enforcement agencies based on Penal Code 919(b); the focus of the tours is condition and management of the facilities. In addition, individual members of the Grand Jury, in conjunction with the assessment of these agencies, participated in ride-alongs with various law enforcement departments. The agencies visited during this term include the following:

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

In order to provide a format for consistent assessment of each agency, the Grand Jury developed a rating form which contained the following elements:

- Facility and Maintenance
- Safety and Security
- Procedures
- Budget/Finance
- Health
- Citizen Complaint Process
- Staffing

The rating form allowed each member of the Grand Jury to assess individually their impressions of the operation of the agency (see attached form).

Each visit encompassed a presentation by agency staff and a tour of the facility. The entire membership of the San Joaquin County 2005/06 Civil Grand Jury participated in these tours; this body does appoint a separate "Law Enforcement Committee." Of necessity, each visit provided an overview of the operation of the agency, but not an opportunity to conduct an exhaustive review of all aspects of the operation. However,

based on the observations made by the individual members of the Grand Jury and discussion after the visit, a consensus of opinion was formulated.

As a follow-up to the visits, the Grand Jury sent letters to each agency providing information regarding any observations which focused on needed improvements in operations. The letters sent to the directors indicated that the information contained within the original letter would be included in the Final Report of the 2005/06 Grand Jury. The agency directors were invited to provide a letter of response back to the Grand Jury if desired. The letters from the agencies which responded are included in this report.

DEUEL VOCATIONAL INSTITUTION

The Grand Jury learned about the complexities of the institution in its current role as a reception center for the other state prisons in Northern California, in which many of the inmates stay only a matter of ninety days before being transferred to another prison in the system. The members found that the facility was continuing to function in a generally effective manner despite a fifty-year-old facility, 4100 inmates in a facility built for 1700, and a shortage of sworn staff. The safety of all persons appeared to be well-handled, and the staff we encountered all seemed to take pride in their jobs.

FINDINGS:

1. We saw examples of what appeared to be unclean areas, greatly in need of some basic cleaning and maintenance activities, such as the reception area and the medical area, with the mental health area in particular appearing neglected. Trash was strewn around and the environment generally seemed dirty.
2. Space in the housing areas was inadequate, with current occupancy greatly exceeding the capacity of the facility. We understand that the change in function of the facility to a reception center has created many of the problems related to space.
3. The use of mandatory overtime to cover vacant positions and staff absences is an expensive and demoralizing way to ensure adequate staff for all shifts (with an average of about thirty-three overtime shifts each day). We understand that a number of factors have contributed to this problem, including difficult recruitment, long training periods for eligible officers, and the expected retirement of many officers in the near future.

Recommendations:

1. Better and more frequent cleaning procedures need to be put in place to counteract the messiness created by the high volume of inmates who populate the center. Painting of areas would help to diminish the dinginess currently observed.
2. Work with the State Department of Corrections and Rehabilitation to develop strategies and financing to modify this facility to match its current function.

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

See Attachment A for the initial response received from this facility.

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

DEPARTMENT OF JUVENILE JUSTICE

N. A. Chaderjian Youth Correctional Facility

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury completed a tour of the California Youth Authority facilities as part of its mandatory annual review. We toured all three facilities on the same day, so our assessments were, of necessity, somewhat superficial; however, we were able to draw some conclusions.

FINDINGS:

1. The primary determination of the Grand Jury was that very little education was being conducted. Although we visited one housing unit where a teacher was working with several wards, we saw very little evidence of education for those wards who should be having state-mandated classes.
2. We met the Principal of the school, who informed us that her teaching staff was at full capacity and that she experienced no problems in finding qualified teachers. She indicated that she actively recruits teachers and that once they have begun the application process, she actively participates to ensure that the process does not take a lengthy period to accomplish. We commend her for that activity. However, our tour of the school presented no verification that the education facilities were being utilized.
3. In addition, in the Kern housing area, we were told that teachers worked with the wards through cell doors. The one ward who appeared to have a teacher at his door was engaging in disruptive behavior related to the appearance of the Grand Jury members.
4. The facility no longer has accreditation from the Western Association of Schools and Colleges (WASC).
5. The Grand Jury made a determination from the visit that security was problematic at the facility. Security measures appear inadequate, leaving staff and wards vulnerable to attack and/or injury from violent wards. A portion of the problem related to security and safety is the deteriorating facility which provides opportunities for this type of problem.
6. Turnover in the superintendent positions at the facilities in San Joaquin County had been frequent, leaving the staff and wards without stable and consistent leadership.
7. In May 2005, the California Youth Authority presented a new program model in state court which focused on "preparing youth to reenter society from the day they arrive" at these facilities. The program was designed to emphasize "community protection; to increase offender accountability to the victims and the community; and to improve offender competency." We found little evidence of this reform during our visit.

Recommendations:

1. Ensure that as many wards as possible are able to take advantage of academic and vocational courses to reduce their chances of recidivism upon release.
2. Same as #1.
3. Consider alternatives to education by allowing inmates to have regular classes in settings other than through the bars of the cells.

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

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

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

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

See Attachment B for the initial response received from this facility.

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.

- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

DEPARTMENT OF JUVENILE JUSTICE

DeWitt Nelson Youth Correctional Facility

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury completed a tour of the California Youth Authority facilities as part of its mandatory annual review. We toured all three facilities on the same day, so our assessments were, of necessity, somewhat superficial; however, we were able to draw some conclusions.

FINDINGS:

1. Our primary determination at this facility was that very little education was being conducted. Although we observed a "graduation" ceremony for eleven wards who had been in a substance abuse education program and had an opportunity to hear them indicate how they were planning to make changes in their lives to prevent a return to incarceration, we found that little education was occurring for other wards. We found that for two months prior to our visit, no classes had been held because of instructor shortages. We observed wards just sitting around in a dormitory with no indication of directed activities.
2. DeWitt Nelson High School, in securing a three year accreditation from WASC, has established a positive educational foundation upon which to build. The accreditation is valid through June 30, 2008.
3. Turnover in the superintendent positions at the facilities in San Joaquin County had been frequent, leaving the staff and wards there without stable and consistent leadership.
4. In May 2005, the California Youth Authority presented a new program model in state court which focused on "preparing youth to reenter society from the day they arrive" at these facility. The program was to emphasize "community protection; offender accountability to the victims and the community; and improving offender competency." We found little evidence of this reform during our visit.

RECOMMENDATIONS:

1. Increase the number of instructors available to the wards so that regular and consistent educational classes may be held.
2. An aggressive plan should be developed to promote quality education services directed at achieving curricular standards and instructional benchmarks. These efforts would only help to strengthen the overall quality and integrity of the program. Achieving WASC accreditation is imperative.
3. Appoint leaders to the facility who have willingness and resolve to remain with the institution to bring about stable and dynamic leadership to staff and the wards within the facility.
4. Work with the Department of Juvenile Justice and the Department of Corrections and Rehabilitation to improve overall conditions in the operation of this facility and implement a plan to increase the potential ability of wards to re-enter society successfully.

See Attachment C for the initial response received from management at this facility

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.

- d. The recommendation will not be implemented, with an explanation therefore.

DEPARTMENT OF JUVENILE JUSTICE

O. H. Close Youth Correctional Facility

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury completed a tour of the California Youth Authority facilities as part of its mandatory annual review. We toured all three facilities on the same day, so our assessments were, of necessity, somewhat superficial; however, we were able to draw some conclusions.

FINDINGS:

1. Our primary determination at this facility was that very little education was being conducted. The alarm system was inoperable on the day of our visit; therefore, no classes were being held. We were informed that this alarm failure was a regular occurrence, and because of its role in protecting staff, classes are frequently canceled.
2. In addition, the school has been having great difficulty finding qualified teachers interested in teaching in this environment. Even when qualified teachers are found, the hiring/background process is so cumbersome that positions remain vacant for long periods of time, often resulting in the prospective teacher taking a position elsewhere. Because O. H. Close houses the youngest wards among the three facilities, the absence of education is an untenable situation.
3. Grand Jury members also noted that inappropriate reading materials were found in some classrooms.
4. The school's WASC accreditation appears to have expired on June 30, 2005, and there is no evidence of a scheduled revisit/follow-up from WASC
5. Turnover in the superintendent positions at the facilities in San Joaquin County had been frequent, leaving the staff and wards there without stable and consistent leadership.
6. In May 2005, the California Youth Authority presented a new program model in state court which focused on "preparing youth to reenter society from the day they arrive" at these facilities. The program was to emphasize "community protection; offender accountability to the victims and the community; and improving offender competency." We found little evidence of this reform during our visit.

RECOMMENDATIONS:

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

2. Work with the Department of Juvenile Justice and the Department of Corrections and Rehabilitation to recruit new teachers and reduce the barriers to their application and hiring process. Improve working conditions and safety for teachers to reduce turnover.
3. Carefully assess the reading materials available to all wards to ensure that age, maturity, and reading level are appropriate. Remove materials which are inappropriate to these students.
4. The Administration and faculty need to aggressively pursue the accreditation of the facility's education program to ensure that quality program/services are maintained. Emphasis should be focused on the WASC school-wide key issues for follow-up:
 - Students meeting the daily instructional classroom time
 - Measurable benchmarks reflecting student achievement
 - Better data collection and analysis to measure student achievement
 - Improvement and collaboration among all stakeholders (staff, administration, custody personnel, and wards)
 - Promote greater technology in the school's curricular delivery
5. Appoint leaders to the facility who have willingness and resolve to remain with the institution to bring about stable and dynamic leadership to staff and the wards within the facility.
6. Work with the Department of Juvenile Justice and the Department of Corrections and Rehabilitation to improve overall conditions in the operation of this facility and implement a plan to increase the potential ability of wards to re-enter society successfully.

See Attachment D for the initial response received from this facility

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

SAN JOAQUIN COUNTY SHERIFF'S DEPARTMENT

San Joaquin County Jail

On Thursday, October 13, 2005, the 2005/06 San Joaquin County Civil Grand Jury completed an assessment visit of the Sheriff's Department, Honor Farm, Jail, and Morgue, which included a presentation by staff and a tour of the facility. We sought fair conclusions based on the presentation of the areas above and/or our actual observations. However, this one day visit did not allow us to make all of the reasoned judgments we might make if we spent more time and reviewed more aspects of the operation. It seems clear that the leadership provided by the current Sheriff (an interim appointment) has resulted in stability and enhanced pride in the department. From what we were able to observe, we felt the operations are excellent overall, with some need for improvement as outlined below in our findings and recommendations, many of which were also identified in the presentation provided to the Grand Jury members at the beginning of the tour.

FINDINGS:

FACILITY:

1. In general, we found the facility to be well-maintained and clean; however, we noted the need for renovation in the Honor Farm dormitories we toured. Those buildings are outdated and appear to be difficult to maintain; although control of the inmates appeared to be good, the layout of those old facilities creates an environment where problems could occur.
2. The kitchen area, which was last remodeled in the 1980's is definitely in need of renovation or replacement. Although the facility apparently is adequate to feed inmates with the contracted provider carrying out the food services, the kitchen layout and equipment do not provide for efficient handling and preparation of food. In addition, we noted that the fans over the entrances were not working during our visit, which can lead to intrusion by insects.
3. During our tour of the various portions of the facility, we learned that space is inadequate to house the number of bookings and incarcerations each year (more than

31,000 booked last year), with the consequence that a regular flow of inmates is released early—approximately 10 to 12 each day and 10 to 35 each Monday.

Recommendations:

1. Open the closed 124-Unit Honor Farm building and keep it operating, while assessing opportunities for renovating or replacing current Honor Farm dormitories.
2. Find the funding to replace the current kitchen and equipment, making this a priority for completion in the near future. At a minimum, the fans in the doorways should be operating.
3. Work with the County Administrator and the Board of Supervisors to develop a strategic and economic plan to construct additional buildings to reduce the number of early releases based on the lack of available beds. We are concerned with the impact on the community of releasing inmates before they have served their court-ordered time in jail.

PROCEDURES:

Findings:

1. The booking process has been improved based on the department's participation in the CAL ID Program for intake and fingerprint technology.

Recommendations:

None for this section.

STAFFING:

Findings:

1. Staffing in the Sheriff's Department has not grown commensurate with the growth of the population served in the unincorporated areas of San Joaquin County, reportedly 125,000 six years ago and 138,400 now. During this same time period, no additional Deputy Sheriffs were added to the department, and no investigative positions have been added since the 1970's. It was reported that of 124 patrol positions, only 87 staff are available for duty, which in turn affects response time in the County, with Priority 1 Calls (where the well-being of a person might be in jeopardy) averaging 28 minutes in 2004/05. A County map showed the various beats in the County, with two deputies assigned in each of the central portions on days, but only one deputy on duty in the four beats which make up the perimeter of the County. The department was considering alternatives to deputies taking reports on Priority 3, 4, and 5 calls, including non-deputized staff and online opportunities for citizens, which will assist in making deputies available for the more serious calls. However, increasing available deputies is the only true answer to improving

service to the community, including officers at the various schools in the County. Although we were not provided the specific budgetary numbers, we believe that overtime paid to fill needed shifts is a large part of the Sheriff's Department budget.

Recommendations:

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

BUDGET/FINANCE:

Findings:

1. We did not review a copy of the detailed Sheriff's Department budget, but we were told it totaled \$93.4 million (about 48% of the County's entire budget for primary law enforcement services), with \$45.6 apportioned to Operations and \$47.8 to Custody. The ongoing shortfall in budget for the department has prevented new buildings and necessary renovations of existing buildings, has curtailed the retention of trained staff, and has resulted in the early release of inmates. The revenue from other law enforcement agencies for booking fees would be ending in the near future, which will also have a major impact on departmental funding in the future.

Recommendations:

1. The department should work with appropriate County staff to increase the budget for the department to cover the needs outlined above.
2. The Board and the legislature should work together to continue the booking fees or to establish a legislative substitute for this revenue.

SAFETY:

Findings:

1. During our tour, we found that security and safety seemed to be in good order, with the doorway video surveillance providing an effective way to maintain safety for staff. In addition, the control of inmates in all areas appeared to be functioning effectively.

Recommendations:

We have no recommendations in this area at this time.

MEDICAL CARE FOR INMATES:

Findings:

1. During our tour of the medical facility within the jail, we were able to observe the cleanliness and efficient layout of the unit. We were told about the procedures for inmates to request and receive medical care, and the process for ensuring that inmates are tested for communicable infectious diseases such as tuberculosis. In addition, the medical facility has negative pressure rooms in which to place inmates with infectious diseases for the protection of inmates and staff.

Recommendations:

We have no recommendations in this area at this time.

COMPLAINT PROCESS:

Findings:

1. We were provided the booklet given to persons who wish to make a complaint. We were also told that video surveillance has reduced the number of complaints filed by inmates. We did not have enough information in this area to make a reasoned assessment.

Recommendations:

We have no recommendations in the complaint process at this time.

RIDE-ALONGS:

Findings:

1. The computer systems in the cars are not consistently reliable; deputies were forced to change vehicles to find a computer which was working.
2. For those calls for service in the greater County area, some of which require the vehicles to drive off-road, the regular patrol cars are inadequate.
3. Deputies responding to calls for service must do much of the investigative follow-up on minor crimes, often necessitating many stops trying to track down addresses and locales of suspects.

Recommendations:

1. Assess the functionality of the mobile computer system and make improvements to increase the reliability of the computers.
2. Consider the feasibility of purchase of SUV's for some of the unincorporated areas for deputies to use when required to drive off-road or other similar environments.

3. Review the feasibility of providing investigative staff to eliminate some of the follow-up currently required of deputies in order to keep the deputies free to respond to calls for service.

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

STOCKTON POLICE DEPARTMENT

On February 23, 2006, the Grand Jury heard a presentation by Stockton Police Administrative staff and toured the main facility on Washington Street. In addition, on March 23, 2006, the members toured the Eberhardt Building containing other Police Department operations. Overall the facilities appeared clean and orderly, although the main department building is beginning to show its age. In particular, the holding cell area of the facility needs updating. The use of satellite departments in North Stockton and Weston Ranch is helping to prevent overcrowding and placing the officers closer to the members of the community they serve.

The members were impressed by the Security Camera operation within the Stockton Police Department. Demonstrations of the capabilities of the cameras indicated a wide-ranging surveillance of the downtown area as well as other areas of Stockton. During the tour, information was provided regarding a just-completed arrest of two graffiti taggers because of the operation of the security cameras.

The traffic section's use of cameras in various intersections around Stockton also showed its usefulness in reducing accidents in dangerous cross-street locations. The conviction rate for citing violators is also impressive.

The department staff discussed their goal of reducing response time to citizen calls for service. Currently, the Community Police Officers provide back-up assistance in taking crime reports and responding to minor traffic accidents.

FINDINGS:

In addition to the presentation and tour, many Grand Jury members participated in ride-alongs with officers from the Stockton Police Department. Overall, the members found that the officers perform exceptionally well and provide competent, courteous service to the community, including those who are arrested on charges, many of which are related to methamphetamine use. Other observations by the members are as follows:

- The officers who make arrests in the field must bring their detainees into the Police Department's holding cell areas, where they must continue their investigation related to the crime, completing many forms by hand and removing the officers from the street for hours at a time. Besides the arrest record forms, one of the forms includes an inventory of possessions of the detainee. If drugs and drug paraphernalia are discovered, additional forms must be completed, with initial testing of the drug, weighing of the substance, and other activities carried out by the officer. For all detainees, the officer must fingerprint and photograph the person, before finally taking them to the San Joaquin Jail for booking. This process also removes the officer from patrol on the street, especially when a number of law enforcement officers arrive at the same time at the jail and must wait in turn for initial processing of their detainees to be completed. Only then is the officer able to return to patrol.
- A number of computers seemed to be inoperable, according to the members who completed ride-alongs. Although the radio is always there as a back-up, the convenience of the computer is removed when it fails to operate reliably and consistently.

RECOMMENDATIONS:

The 2005/06 Grand Jury makes the following recommendations:

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

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

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

SAN JOAQUIN COUNTY JUVENILE JUSTICE CENTER

On December 8, 2005, the Grand Jury heard a presentation by staff at the Juvenile Justice Center and toured the facilities. Although the facility appears to be generally in serviceable condition, the older areas of the center need to be updated for better accommodation for education and activities for the wards. Also, the members were informed that because of limited bed space (179 beds), some wards are either not kept or are released early. The outside areas for recreation were quite barren. On the other hand, the visitation center was quite satisfactory, accommodating both common and individual area visitations. The intake center also appears to function well, with the computer system allowing staff to have instant access to ward behavioral history and other data. The staff appears to be competent in handling the wards and the Grand Jury members neither heard nor found any indications of security issues. The medical care for

wards appeared to be adequate with daytime medical/nursing staff onsite, with access to San Joaquin General Hospital for evening and night access to care.

RECOMMENDATIONS:

The 2005/06 Grand Jury has no recommendations at this time.

RESPONSE REQUIRED:

No response required.

SAN JOAQUIN COUNTY ADULT PROBATION DEPARTMENT

The Grand Jury heard a presentation and had a brief tour of the department of Adult Probation on November 17, 2005. The members heard about the myriad of programs which make up the department's activities, the "Continuum of Graduated Supervision Services." Clearly, these programs are well-conceived and cover a broad range of services. What the Grand Jury found surprising was that the department could continue to offer these services despite a decrease of 43 staff members in the last three years, including nineteen probation officers. This reduction in staff occurred at a time when the caseload of the department grew by nearly 60% in the last ten years (from 15,810 in 1995 to 26,808 in 2005). Correspondingly, the caseload per Probation Officer is the highest in the state, most recently at more than 650.

RECOMMENDATIONS:

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

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

SAN JOAQUIN COUNTY COURT SERVICES/SHERIFF'S DEPARTMENT

On April 20, 2006, the Grand Jury toured the San Joaquin County Sheriff's Court Services area in the Basement and on the second and third floors of the Courthouse. The deputies are managing well in an area which has clearly outlived its useful life. Although serious incidents have been rare in these areas, the members observed that the potential for security issues exists because of poorly-arranged space. With a typical census each court day of approximately 105 inmates, control of the population is key to the safety measures. Of greatest concern is the arrangement on the second and third floors where the inmates must be escorted within the hallways where victims, witnesses, jurors, family members, etc., may also be in attendance. Despite the fact that the shackled inmates are always accompanied by Sheriff's deputies, the opportunity for a violent incident exists. The members were also told that the Court Services Division has lost twelve staff members over the past two years because of budget cuts.

RECOMMENDATION:

The 2005/06 Grand Jury recommends the following:

- 1. That the Sheriff's Department should work with appropriate County staff and the Superior Court to improve the process of moving inmates from the holding areas to the courtrooms.
- 2. That the vacant positions in the department be filled.

Response Required:

Pursuant to Section 933.05 of the Penal Code:

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

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

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

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

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

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

Date: _____

Facility Name: _____

Representative(s) of Facility: _____

	S	U	NI	NA	Comments
FACILITY					
Modern, up-to-date					
Maintenance and cleanliness					
Adequate space					
Public access					
Restrooms (clean, adequate, placement)					
Equipment					
Food Services					
Visitation Facilities					
Video Surveillance Equipment					
PROCEDURES					
Policy and Procedure Manual (available, up to date)					
Intake, Fingerprint Technology, Prisoner Tracking					
Court Processing (timeliness, efficiency)					
Protection of Inmate Property					
Release of Inmates (timing, accommodation)					
Early Release/Work Release Programs					
STAFFING					
Overall adequacy of staffing					
Recruitment procedures, training					
Retention of qualified staff					
Overtime					
Response time to citizens calling for aid					
BUDGET/FINANCE					
Adequacy of funding for operations					
SAFETY					
Transportation of inmates					
Community work crews					
Overall safety (staff and inmates)					
Protection of staff and public (courthouse)					
MEDICAL CARE					
Procedures for obtaining (inmates)					
Medical isolation/negative pressure					
Administration of TB tests					

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

[illegible]

Grand Jury Member: _____

DIVISION OF ADULT OPERATIONS**DEUEL VOCATIONAL INSTITUTION**

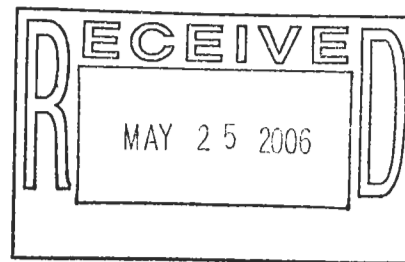
P.O. Box 400

Tracy, CA 95378-0400

Appendix A



May 15, 2006



Randy Knodt, Foreperson
San Joaquin County Civil Grand Jury
222 East Weber Ave. Room #303
Stockton, CA 95202

Dear Mr. Knodt,

This letter is in response to your correspondence dated December 29, 2005, in regard to the San Joaquin County Civil Grand Jury tour of Deuel Vocational Institution (DVI) on October 27, 2005. I would like to thank you for taking your annual tour of (DVI), and I appreciate the input you have provided me with regard to your observations. I would like to take this opportunity to respond to some of the observations noted in your letter.

The jury noted some areas of uncleanliness in some of our medical areas. Since your tour we have activated an inmate cleaning crew specifically responsible for cleaning these areas. Additionally, we have added an Associate Warden and support staff to our compliance division which has given our medical department an added level of supervision. I feel these noted areas have drastically improved and we are continuously striving to ensure we are as close to the industry standard as possible.

As a result of the tour the jury noted space deficiencies in relation to our inmate populations. As noted in your letter, we do not have a great deal of control relative to the amount of inmates we receive on a weekly basis. In turn, DVI faces many challenges as a result of county intake. The Department of Corrections and Rehabilitation headquarters has implemented the theory of the "Right prison, Right mission." This will be an evaluation of all of California's 33 facilities structural design and their current mission. Through this process they will attempt to determine if the current mission of DVI would be better served in one of our more modern design prisons.

The jury made note of the fact that staff were forced to work an average of 33 overtime shifts per day which proves to be expensive and demoralizing for staff. Since your tour the Department activated the Training Annex at the old women's facility in Stockton which has helped in reducing the Departmental vacancy rate. Since your tour DVI has reduced the amount of overtime for Correctional Officers by approximately 33 percent. I feel these numbers will further decrease as we receive additional new Correctional Officers from our academies.

I am proud of the work my staff do here at DVI. We have a tenured workforce that strives for excellence on a daily basis. Although we are not flawless, we attempt to correct our deficiencies so that this facility can stand head and shoulders above the rest. I again, would like thank all the jury members for touring this facility and look forward to seeing you next year.

If you have any questions feel free to contact me through my Administrative Assistant, Correctional Lieutenant Mike Quaglia at 209-830-3851.

Sincerely,

A handwritten signature in black ink, appearing to read "S. R. Moore". The signature is fluid and cursive, with the first name "S." and last name "Moore" clearly distinguishable.

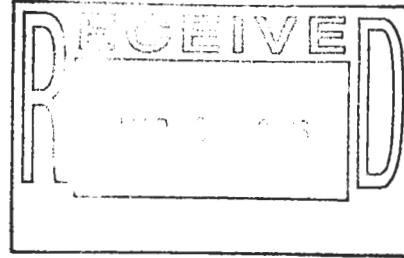
S. R. MOORE
Warden (A)
Deuel Vocational Institution

OFFICE OF THE SECRETARY

P. O. Box 942883
Sacramento, CA 94283-0001

Appendix B

March 23, 2006



Randy Knodt, Foreperson
2005/06 San Joaquin County Civil Grand Jury
Courthouse
222 East Weber Avenue-Room 303
Stockton, CA 95202

Dear Mr. Knodt:

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury toured the N.A. Chaderjian Youth Correctional Facility located in Stockton. Afterwards, you summarized your observations in a letter to Superintendent Eric Umeda as well as to my office. Your letter cited three main areas of concern. Those concerns included your observations related to education services, the tenure of Superintendents at the facility, and progress towards proposed juvenile justice reforms. You also cited concerns with the safety of staff at this facility.

Providing education services to our ward population is a critical responsibility for the Division of Juvenile Justice. Most wards attend school for a portion of the day on a daily basis. The only exceptions are those wards who are high school graduates. In some instances, it may be necessary for us to provide a ward with an alternative education plan. This might mean that services are provided at the ward's cell until such time that it is safe enough to bring him out of his room for the delivery of education services. These services are primarily provided to the wards committed for violent and disruptive behavior.

We invite you to return to N. A. Chaderjian High School to visit our classrooms and to further observe our educational endeavors. Copies of accreditation reports from the Western Association of Schools and Colleges have been forwarded to Trisa Martinez, Judicial Secretary, as per your request under a separate cover.

Superintendent Eric Umeda is a well-qualified and skilled individual. I believe that he has the leadership and management skills to lead this facility in this period of change. It is my personal objective to stabilize the leadership of each of these facilities as a prerequisite to extensive reform efforts.

The reform plan you cite in your letter has been superseded by a more comprehensive safety and welfare plan, which was filed with the court on December 1, 2005. The Governor's proposed budget provides substantial support for the proposed reform measures. In the interim, we have substantially reduced intake to this facility beginning August 25, 2005, which has resulted in a dramatic reduction in ward on ward and ward on staff violence and a reduction in the number of

Randy Knodt, Foreperson
Page 2

wards per living unit. We have established and filled new positions to support the Ward Grievance Program and Wards with Disabilities Program. The facility's management team has implemented the Ward Incentive Program. This program provides positive incentives and rewards to wards that wish to program positively and refrain from violence.

Additionally, we have developed relationships with a number of juvenile justice experts to assist us in preparing youthful offenders for their successful return to the community. These activities are consistent with our overall reform plan.

I would also like to respond to the specific references to staff safety at N. A. Chaderjian Youth Correctional Facility. As previously stated, we modified our intake to this facility to alter the cycle of violence. Since that decision, there has been a dramatic decrease in violent acts by wards towards each other and towards staff. The atmosphere at this facility had changed considerably by the time of your visit and we would be happy to provide statistical data, which details this positive trend.

You and other members of the Grand Jury are always welcome to visit our facilities. If you have any questions, please contact Mr. Ed Wilder, Director of the Division of Juvenile Facilities, at (916) 262-1530.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bern', with a long horizontal flourish extending to the right.

Bernard Warner
Chief Deputy Secretary
Division of Juvenile Justice

cc: E. Wilder
J. Aguas
G. Pressley
S. Wise
Y. Marc-Aurele
M. Minor
E. Umeda

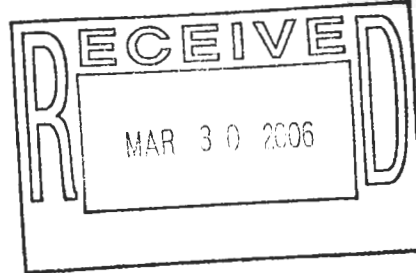
OFFICE OF THE SECRETARY

P. O. Box 942883
Sacramento, CA 94283-0001

Appendix C



March 23, 2006



Randy Knodt, Foreperson
2005/06 San Joaquin County Civil Grand Jury
Courthouse
222 East Weber Avenue-Room 303
Stockton, CA 95202

Dear Mr. Knodt:

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury toured the DeWitt Nelson Youth Correctional Facility. Afterwards, you summarized your observations in a letter to Superintendent Mike Minor as well as to my office. Your letter cited two main areas of concern. Those concerns included your observations related to education services and the tenure of Superintendents at the Stockton facilities. You also expressed your concern regarding the Division's progress towards proposed juvenile justice reforms.

Providing education services to our ward population is a critical responsibility for the Division of Juvenile Justice. Most wards attend school for a portion of the day on a daily basis. The only exceptions are those wards who are high school graduates. It is unfortunate that the boiler system that supplies heat to the school area was not operational causing a cancellation of classes at the time of your visit. Emergency repairs were made to deal with the immediate the heating issues. Long term plans are underway for replacement of the DeWitt Nelson Youth Correctional Facility hot water system.

We are continuing our vigorous efforts to recruit and hire teachers. We are using newspaper and college recruitment to alleviate the teacher shortage. We invite you to return to DeWitt Nelson High School to gather a more comprehensive view of our educational endeavors at this site. A copy of the accreditation report from the Western Association of Schools and Colleges has been forwarded to Trisa Martinez, Judicial Secretary, as per your request under a separate cover.

It is my personal objective to stabilize the leadership of each of the Division's facilities as a prerequisite to extensive reform efforts. While this is Michael Minor's first appointment as a Superintendent, he brings significant experience and energy to his new assignment. Mr. Minor is already exhibiting leadership and management skills necessary to lead this facility in this period of change.

Randy Knodt, Foreperson
Page 2

The reform plan you cite in your letter has been superceded by a more comprehensive safety and welfare plan which was filed with the court on December 1, 2005. The Governor's proposed budget provides substantial support for those proposed reform measures.

In the interim, we are reducing the number of wards on each living unit and have established and filled new positions related to the Ward Grievance System, the Wards with Disabilities Program and ward transition to parole. The facility's management team has implemented the Ward Incentive Program. This program provides positive incentives and rewards to wards that wish to program positively and refrain from violence. Additionally, we have developed relationships with a number of juvenile justice experts to assist us in preparing youthful offenders for their successful return to the community. These activities are consistent with our overall reform plan.

If you have any questions, please feel free to contact Ed Wilder, Director of the Division of Juvenile Facilities, at (916) 262-1530.

Sincerely,

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

Bernard Warner
Chief Deputy Secretary
Division of Juvenile Justice

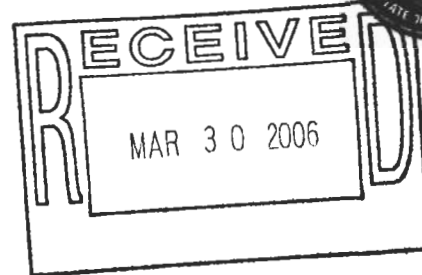
cc: E. Wilder
J. Aguas
G. Pressley
S. Wise
Y. Marc-Aurele
M. Minor
E. Umeda

OFFICE OF THE SECRETARY**Appendix D**

P. O. Box 942883
Sacramento, CA 94283-0001

March 23, 2006

Randy Knodt, Foreperson
2005/06 San Joaquin County Civil Grand Jury
Courthouse
222 East Weber Avenue-Room 303
Stockton, CA 95202



Dear Mr. Knodt:

On December 22, 2005, the 2005/06 San Joaquin County Civil Grand Jury toured the O. H. Close Youth Correctional Facility. Afterwards, you summarized your observations in a letter to Superintendent Yvette Marc-Aurele as well as to my office. Your letter cited two main areas of concern. Those concerns included your observations related to education services and the tenure of Superintendents at the Stockton facilities. You also expressed your concern regarding the Division's progress towards proposed juvenile justice reforms.

Providing education services to our ward population is a critical responsibility for the Division of Juvenile Justice. Most wards attend school for a portion of the day on a daily basis. The only exceptions are those wards who are high school graduates. It is unfortunate that the personal alarm system in the school area was not operational causing a cancellation of all classes at the time of your visit. The personal alarm system was repaired and classes resumed the next day. The curriculum materials you viewed in the English Learner Development classroom were the Highpoint materials as well as supplemental materials specific to English Language Learners. All of these materials were approved by the California Education Authority.

We are continuing our vigorous efforts to recruit and hire teachers. We invite you to return to Johanna Boss High School to gather a more comprehensive view of our educational endeavors. A copy of the accreditation report from the Western Association of Schools and Colleges has been forwarded to Trisa Martinez, Judicial Secretary, as per your request, under separate cover.

It is my personal objective to stabilize the leadership of each of the Division's facilities as a prerequisite to extensive reform efforts. Superintendent Yvette Marc-Aurele brings over twenty-six years of experience to this facility and has previously served at O. H. Close Youth Correctional Facility as the Superintendent. She is deeply committed to implementing the Division's remedial plans at this site. I believe that Ms. Marc-Aurele has the leadership and management skills to lead the facility in this period of change.

Randy Knodt, Foreperson
Page 2

The reform plan you cite in your letter has been superceded by a more comprehensive safety and welfare plan which was filed with the court on December 1, 2005. The Governor's proposed budget provides substantial support for those proposed reform measures. In the interim, we have reduced the number of wards on living units and established and filled new positions including a Ward Grievance Program coordinator, and a Ward's with Disabilities coordinator. We have established a pilot program to eliminate temporary detention for our youngest offenders. The facility's management team has implemented the Ward Incentive Program. This program provides positive incentives and rewards to wards who wish to program positively and refrain from violence. Additionally, we have developed relationships with a number of juvenile justice experts to assist us in preparing youthful offenders for their successful return to the community. These activities are consistent with our overall reform plan.

If you have any questions, please feel free to contact Ed Wilder, Director of the Division of Juvenile Facilities, at (916) 262-1530.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bern', with a long, wavy horizontal line extending to the right.

Bernard Warner
Chief Deputy Secretary
Division of Juvenile Justice

cc: E. Wilder
J. Aguas
G. Pressley
S. Wise
Y. Marc-Aurele
M. Minor
E. Umeda

**SAN JOAQUIN COUNTY GRAND JURY
TOURS FOR 2005-2006**

DATE	PLACE
9/29/05	San Joaquin County Department of Aging
9/29/05	San Joaquin County Adult Protective Services
9/29/05	San Joaquin County Child Protective Services
10/13/05	San Joaquin County Sheriff's Office and County Jail
10/20/05	Stockton Hotel, Ballpark and Arena
10/27/05	Deuel Vocational Institution
11/02/05	San Joaquin County Registrar of Voters
11/10/05	San Joaquin County Human Resources
11/17/05	San Joaquin County Adult Probation
12/01/05	San Joaquin County District Attorney's Office - Courthouse
12/08/05	San Joaquin County Juvenile Probation - Peterson Hall
12/22/05	Northern California Youth Authority
2/23/06	Stockton Police Department
3/16/06	Mary Graham Children's Shelter
4/06/06	San Joaquin General Hospital
4/13/06	Stockton Metropolitan Airport
4/20/06	San Joaquin County Sheriff's Court Services - Stockton Courthouse
4/27/06	San Joaquin County Mental Health Services
5/03/06	City of Lathrop, Police & Fire Departments
5/10/06	City of Ripon & Police & Fire Departments
5/11/06	McNair High School - Lodi Unified School District
6/01/06	San Joaquin County Sheriff's Boating Safety
6/08/06	Cesar Chavez High School - Stockton Unified School District