



## The Superior Court

COUNTY OF SAN JOAQUIN  
222 E. WEBER AVENUE, ROOM 303  
STOCKTON, CALIFORNIA 95202

(209)992-5695  
WEBSITE  
www.sjcourts.org

FOR IMMEDIATE RELEASE  
June 1, 2015

Contact: Trisa Martinez  
Judicial Secretary  
(209) 992-5290

### **SAN JOAQUIN COUNTY CIVIL GRAND JURY RELEASES TWO FOLLOW-UP REPORTS TO EARLIER INVESTIGATIONS**

The 2014-2015 Grand Jury determined during its follow-up investigation that both Stockton Unified School District and the City of Tracy implemented the recommendations made by the 2013-2014 Grand Jury.

The two follow-up reports were made public today, at least two working days after being made available to both Stockton Unified and Tracy city officials.

In its Swiftly Hired report on Stockton Unified's district police department hiring practices, the previous Grand Jury made a series of recommendations aimed at strengthening procedures for hiring police officers. The earlier Grand Jury report, for example, found that the District's Human Resources department was left out of the hiring process. A follow-up investigation by the 2014-2015 Grand Jury found that the District's HR and Police Department are coordinating hiring practices of police officers.

In the previous Grand Jury's investigation of the Tracy Municipal Airport, Grand Jurors found that the City staff had provided inaccurate and incomplete information to the City Council that could jeopardize the eligibility for the City receiving future grants. Acting on the earlier Grand Jury's recommendations, those deficiencies have been addressed, as the follow-up investigation by the current Grand Jury showed.

By law, only the Jury foreman is allowed to comment publicly about Grand Jury investigations.

###

# Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 1213



## Tracy Municipal Airport: *Development vs. Safety Zones*

### Preface

This report contains the methods the 2014-2015 Grand Jury used to determine if the Tracy City Council responded to the 2013-2014 Grand Jury Report, “*Tracy Municipal Airport: Development vs. Safety Zones.*” The 2013-2014 Grand Jury recommendations were meant to strengthen the City of Tracy’s internal policies and procedures.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the City’s September 2, 2014 responses, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after the City’s response to each recommendation.

A complete copy of the original report and the City’s response may be found on the San Joaquin County Grand Jury website at:

[http://www.sjcourts.org/grandjury/2013-2014\\_roster%20and%20reports.html](http://www.sjcourts.org/grandjury/2013-2014_roster%20and%20reports.html)

### Glossary

<b>AAM</b>	Airport Agreement Memorandum, written by a local developer dated April 26, 2013, requesting the City take certain action related to the Tracy Airport
<b>City Council</b>	The four elected City Council members and the separately elected mayor of the City of Tracy
<b>ESP</b>	Ellis Specific Plan, identifies the specific permitted uses, density and location of the development north-west of the Tracy Airport
<b>FAA</b>	Federal Aviation Administration

<b>General Plan</b>	City of Tracy’s land use document describing the proposed overall long term development for the City
<b>Safety Zones</b>	The area surrounding the runway prepared or suitable for reducing risk of damage to airplanes in the event of an undershoot, overshoot or excursion from the runway
<b>Third Party Payment</b>	A payment made by one party on behalf of another party’s contractual obligation
<b>Tracy Airport</b>	City of Tracy Municipal Airport

### **Follow-Up Investigation**

The 2014-2015 Grand Jury reviewed the 2013-2014 Grand Jury Final Report, City responses, additional documentation, and interviewed City staff to determine that the City implemented the 2013-2014 Grand Jury recommendations.

### **Findings, Recommendations, Agency Responses and Follow-Up Results**

#### **1.0 Staff Reports Provided to the City Council**

**2013-2014 Finding 1:** “City staff provided inaccurate and incomplete information to the City Council which could jeopardize the eligibility for the City receiving future grants.”

*Agency Response:* “The City agrees with this finding. ...”

**2013-2014 Recommendation 1:** “ City Council direct staff to conduct a comprehensive review for the Council by September 30, 2014, of the FAA and Caltrans safety zone requirements related to development and mandated requirements on runway lengths at the Tracy Airport to insure the City is in compliance for future grant funds.”

*Agency Response:* “This recommendation will be implemented by December 31, 2014. By that time, City staff will conduct a comprehensive review for the City Council of the FAA and Caltrans safety zone requirements related to development and mandated requirements on runway lengths at the Tracy Airport to insure the City is in compliance for future grant funds.”

**The 2014-2015 Grand Jury determined that a memorandum dated December 29, 2014 was provided to the Mayor and City Council describing the “Review of FAA and Caltrans Airport Safety Zone Requirements”. No further action is required.**

## **2.0 Business Proposal to the City**

**2013-2014 Finding 2.1:** “The Tracy City Council did not enter into any written contractual agreement related to any of the contingencies contained in the Airport Agreement Memorandum. However, language in the AAM gave a clear perception that there was an agreement between City staff and the local developer to undertake the contingencies in the memorandum.”

*Agency Response:* “The City agrees that the Tracy City Council did not enter into any written contractual agreement related to any of the contingencies contained in the Airport Agreement Memorandum. ...”

**2013-2014 Finding 2.2:** “City Leaders did not approve any amendment to the ESP as requested by the local developer.”

*Agency Response:* “The City agrees with this finding.”

**2013-2014 Recommendation 2:** “The Tracy City Council adopt a policy by September 30, 2014, requiring full disclosure of any actions taken by the City on proposed substantial changes to major development projects within the City of Tracy.”

*Agency Response:* “This recommendation will not be implemented as it is neither warranted nor reasonable. Provisions of the state Planning and Zoning Law ensure that City actions on land use and development projects are adequately noticed and fully disclosed to the public. For example, any proposed changes to the General Plan, a specific plan, a zoning ordinance, or a development agreement require public notice and hearings before both the Planning Commission and the City Council. (Government Code, §§65353 and 65355 (general plan), 65453 (specific plan), 65854 and 65856 (zoning ordinance), and 65867 (development agreement).) In addition, the Brown Act requires that the City post notice of all items appearing on a City Council agenda in a location that is freely accessible to members of the public and on the City's Internet Web site. (Government Code, §§ 54954.2 (notice for regular meetings), and 54965 (notice for special meetings).) For development projects, City staff usually only presents the City Council with formal requests that are processed through the application, notice, and hearing process described above. City staff does not regularly present the City Council with informal requests that have not gone through this process. This is not only to use the City Council's valuable time more productively but also to avoid confusion over what action is actually before the City Council. City staff receives numerous informal requests and inquiries relating to development projects, many of which do not result in a formal application ever being filed.”

**The 2014-2015 Grand Jury received and reviewed the response. No further action is required.**

## **3.0 City Acceptance of Third Party Payments**

**2013-2014 Finding 3:** “There are no adopted policies or procedures for the City to accept a third party check for a debt owed to the City under a contractual agreement with a private firm.”

**Agency Response:** *“The City disagrees with this finding. The City is subject to state law requirements relating to acceptance of checks. Government Code section 6157 provides that a city must accept certain personal checks and all corporate checks, cashier's checks, money orders, or other draft methods, drawn in its favor or in favor of a designated city official, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency. For personal checks, a city can require the person issuing the check to furnish proof of residence in this state and that the check be drawn on a banking institution located in this state. Other than this limited instance, a city may not refuse to accept a check, money order, or other draft based on the person or corporation issuing the check or the banking institution involved.”*

**2013-2014 Recommendation 3:** “The Tracy City Council adopt a policy by September 30, 2014, relating to the acceptance of third party payments for contractual obligations to the City of Tracy.”

**Agency Response:** *“This recommendation will be implemented as soon as practicable. The City will include a reference to Government Code section 6157 in its Financial Policies the next time such policies are reviewed and updated.”*

**The 2014-2015 Grand Jury determined that a Third Party Checks and Mediums of Payment Administrative Policy and Procedure has been executed by the City Manager and is in full force and effect. This Policy and Procedure does reference Government Code 6157 and is consistent with that section. No further action is required.**

#### **4.0 Airport Classification and Future Development**

**2013-2014 Finding 4:** “The change in the Tracy Airport runway length, requested in the Airport Agreement Memorandum, could have resulted in significant changes in the Ellis Specific Plan uses and densities allowed to be developed within the safety zone.”

**Agency Response:** *“The City agrees with this finding. ...”*

#### **5.0 City Review of Business Licenses**

**2013-2014 Finding 5:** “The City processed an amendment to the airport fuel operator’s contract without checking the current status of the operator’s State license.”

**Agency Response:** *“To the extent the Grand Jury is referring to the operator's corporate status with the California Secretary of State's Office, the City agrees with this finding. ...”*

**2013-2014 Recommendation 5:** “The Tracy City Council adopt a policy by September 30, 2014, requiring the review of the current status of a business’ State license when any applicable City contract is proposed to be amended or renewed.”

**Agency Response:** *“This recommendation will not be implemented because it is not warranted and is not reasonable. However, the City will include the following language in all of its standard form contracts: Contractor shall provide City proof that it has filed all required documents and/or forms with the California Secretary of State and has met all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that is not a suspended corporation. If Contractor is a suspended corporation at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.”*

**The 2014-2015 Grand Jury received and reviewed the response. No further action is required.**

### **Conclusion**

The 2014-2015 Grand Jury determined that the Tracy City Council responded pursuant to statute and in a timely manner to the findings and recommendations made by the 2013-2014 Grand Jury. The Grand Jury appreciates the City’s cooperation in addressing the issues raised in last year’s report.

### **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

# Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 0813



## Stockton Unified School District: *Swiftly Hired*

### Preface

This report contains the methods the 2014-2015 Grand Jury used to determine if the Board of Trustees of the Stockton Unified School District (SUSD) responded to the 2013-2014 Grand Jury Report, “*Stockton Unified School District: Swiftly Hired.*” The 2013-2014 Grand Jury recommendations were meant to improve District police personnel hiring practices.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the District’s August 13, 2014 and February 24, 2015 responses, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after the District’s response to each recommendation.

A complete copy of the original report and the District’s response may be found on the San Joaquin County Grand Jury website at:

[http://www.sjcourts.org/grandjury/2013-2014\\_roster%20and%20reports.html](http://www.sjcourts.org/grandjury/2013-2014_roster%20and%20reports.html)

### Glossary

<b>BP</b>	Board Policy
<b>District/SUSD</b>	Stockton Unified School District
<b>District HR</b>	Stockton Unified School District Human Resources Department
<b>DOJ</b>	California Department of Justice
<b>E.C.</b>	California Education Code

**Interim Chief**            Temporary or transitional police position

## **Follow-Up Investigation**

The 2014-2015 Grand Jury reviewed the 2013-2014 Grand Jury Final Report, District responses, additional documentation, and interviewed District staff to determine that the District implemented the 2013-2014 Grand Jury recommendations.

### **Findings, Recommendations, Agency Responses and Follow-Up Results**

#### **1.0 Pre-employment Requirements**

**2013-2014 Finding 1.1:** “District HR being left out of the hiring process of the Interim Chief and Captain caused confusion thus the pre-employment requirements for the positions were not met.”

*Agency Response:* “The District agrees with this finding.”

**2013-2014 Finding 1.2:** “The District violated California E.C. Section 45125 by not first receiving and reviewing the DOJ report before allowing the Interim Chief and Captain to begin work.”

*Agency Response:* “The District agrees with this finding.”

**2013-2014 Finding 1.3:** “The District violated BP Section 4212 by not first receiving and reviewing the DOJ report before allowing the Interim Chief and Captain to begin work.”

*Agency Response:* “The District agrees with Finding 1.3 that the District violated Board Policy 4212 by not receiving and reviewing the DOJ report before allowing the Interim Chief and Captain to begin work.”

**2013-2014 Recommendation 1.1:** “The District Board is to develop and implement a policy/procedure no later than November 1, 2014 to insure the District HR is involved in the hiring process of police personnel to properly vet the applicant according to the current state law and district board policy.”

*Agency Response:* “The District implemented this recommendation. On February 4, 2014, Assistant Superintendent Craig Wells issued the Pre-employment Requirements Memo to all staff responsible for the paperwork induction process with guidance to complete all required pre-employment steps before any employee starts work. (Exhibit A.) The memo was accompanied by a copy of Education Code 44237, which speaks to the requirement. The District further implemented this recommendation by codifying District hiring procedures for classified employees on March 14, 2014. The guidelines include directions to complete fingerprint

*clearance before an employee may start work. Further, procedures have been established between Human Resources and Stockton Unified School District Police Department to return hiring responsibilities to HR and use established recruitment techniques and screening procedures. In addition, the Police Department has also instituted background procedures consistent with state regulations for hiring of peace officers, and no officer is sworn in or starts work until all those requirements are met. As such, Human Resources will not employ a peace officer as an employee until the Chief of Police certifies that the process is complete. Notable required steps (among others) include: DOJ and FBI clearances (fingerprinting—beyond what a regular school employee/volunteer gets); credit check; psychological exam and medical exam.”*

**The 2014-2015 Grand Jury determined that the Stockton Unified School District Human Resources and Police departments are coordinating hiring practices of police officers. No further action is required.**

**2013-2014 Recommendation 1.2:** “The District Board is to direct the Superintendent to adopt a procedure for training and implementation of the requirements of E.C. Section 45125 and BP 4212 by all involved employees no later than September 1, 2014.”

*Agency Response:* “The District Board has not yet implemented this recommendation, but will provide such direction and a plan for training at its Board meeting on August 26, 2014.”

**The 2014-2015 Grand Jury determined that the SUSD Human Resources issued a “Pre-employment Requirements” memo (dated February 4, 2014) to all staff responsible for the paperwork induction process with guidance to complete all required pre-employment steps before any employee starts work. The District also established guidelines to ensure complete fingerprint clearance before an employee may start work. The Board of Trustees was provided information at the August 26, 2014 Board Meeting (Action Item No. 6.3) on the training and implementation completed by the District regarding the legal requirements for ensuring the timely fingerprinting of all potential employees. No further action is required.**

## **Conclusion**

The 2014-2015 Grand Jury determined that the District Board of Trustees responded pursuant to statute and in a timely manner to the findings and recommendations made by the 2013-2014 Grand Jury. The Grand Jury appreciates the District’s cooperation in addressing the issues raised in last year’s report.

## **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1(a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of

witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).