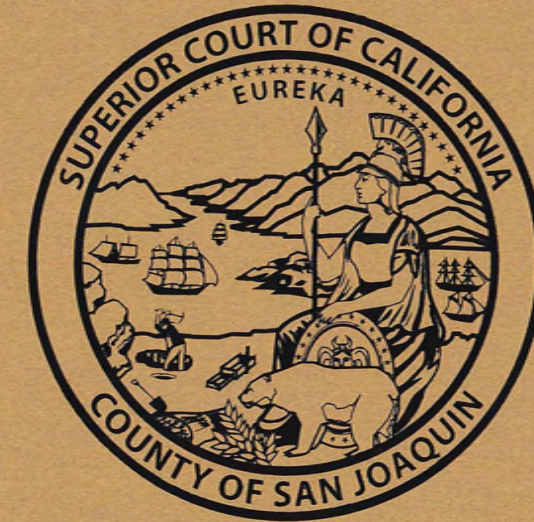


# SAN JOAQUIN COUNTY GRAND JURY



## FINAL REPORT 2014-2015

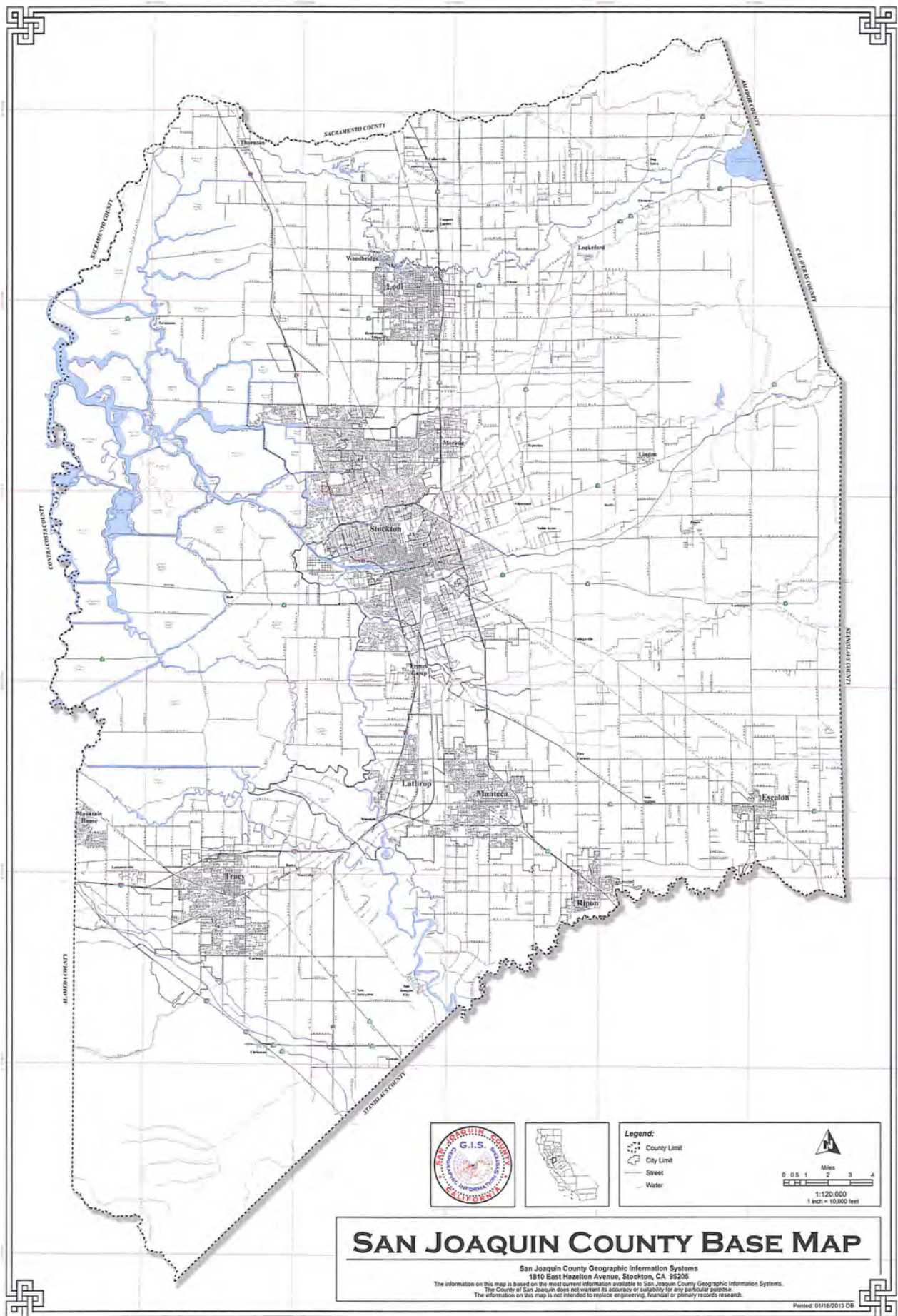
<http://stocktoncourt.org/grandjury/>

# **SAN JOAQUIN COUNTY GRAND JURY**



## **FINAL REPORT 2014-2015**

<http://www.sjcourts.org/grandjury>



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# *Introduction*



## The Superior Court of California County of San Joaquin

*Hon. George J. Abdallah, Jr.  
Judge of the Superior Court*

June 5, 2015

The Superior Court of California, County of San Joaquin thanks and commends the 2014-2015 Grand Jurors for their conscientious efforts on behalf of all San Joaquin County citizens. The Grand Jurors undertook and completed their duties with great industry, intelligence and care.

The Grand Jury is composed of qualified individuals who applied for membership, those drawn from the community and individuals nominated by community leaders. The chosen citizens serve as an independent body under the court's authority. The 2014-2015 San Joaquin County 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 2014-2015 Grand Jurors' thoughtful and constructive recommendations will help ensure the highest quality civic life to which all citizens are entitled.

As the Judge Advisor and Supervisor, it has been my privilege to review the work of the 2014-2015 Grand Jury. The Grand Jurors also received well considered advice from their highly experienced Advisors, County Counsel Mr. Mark Myles, the Assistant District Attorney Mr. Scott Fichtner and the invaluable assistance of the Superior Court administrator, Ms. Trisa Martinez. The Grand Jury undertook consideration of topics having a broad impact upon San Joaquin County citizens. The Grand Jurors also made careful efforts to follow through on the work of their predecessors thereby assuring that the San Joaquin County Grand Jury as an institution maintains a sustained role in our communities. The Grand Jury Final Report educates the public through well written accounts of the work, findings and recommendations of these devoted citizens. The Grand Jurors' recommendations are deserving of careful consideration by government officials and the citizenry.

The efforts, commitment, collective wisdom and experience of these dedicated individuals will continue to better the civic life of all San Joaquin County residents. To each member of the 2014-2015 San Joaquin County Grand Jury, for your many accomplishments the Superior Court extends its gratitude and congratulations.

A handwritten signature in cursive script, reading "George Abdallah, Jr.", is written over a horizontal line.

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



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

June 8, 2015

Honorable Lesley D. Holland  
Presiding Judge of the Superior Court  
County of San Joaquin  
222 E. Weber Avenue, Room 303  
Stockton, CA 95202

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

Dear Judge Holland and Judge Abdallah:

On behalf of the San Joaquin County Civil Grand Jury, I am honored to present to you and the citizens of San Joaquin County the Final Grand Jury Report for 2014-2015.

This report represents the results of the work of the Grand Jury over the last twelve months. Although the jury labored for most of the year with 17 members, two less than the norm, it was able to consider 35 complaints, conduct well over 100 interviews, examine and analyze more than a thousand documents, visit numerous locations, attend many public meetings and spend untold hours meeting, writing and editing.

This Grand Jury is comprised largely of jurors, who understand that the work is important. In order to appraise the efficiency, honesty and transparency of local government agencies it is necessary for the body to perform collectively and conscientiously. The Grand Jury was able to conduct numerous investigations, six of which result in full, original reports. These reports present many facts, which, when analyzed, produce multiple findings and recommendations. It is expected the government entities will treat each seriously, and the resulting responses will produce positive changes.

In addition to the investigations completed, the Grand Jury Continuity Committee vigorously followed up on the findings and recommendations from previous grand juries. Its outstanding efforts produced 11 reports. The committee interviewed more than 13 individuals from the various governmental agencies and reviewed hundreds of documents. The results of this committee's work will ensure that the residents of San Joaquin County will know whether those government agencies actually did what they said they would.

The Grand Jury fulfilled its mandate to inspect all prisons, including the jails, the holding cells and the juvenile detention facilities, in San Joaquin County. Some of the observations are included in the Law and Justice report. Additionally, jurors observed the work of public servants throughout the county by riding along with law enforcement and fire personnel and shadowing employees at various sites.

In the process of completing its duties the Grand Jury interacted with many persons throughout the County. Almost all were cooperative and helpful, and the Jury wishes to thank them. It is impossible to imagine how the Grand Jury could have completed its work without the assistance of its advisors. Judge Abdallah; Assistant District Attorney, Scott Fichtner; and County Counsel, Mark Myles were always readily available to provide guidance. The constant support given by Trisa Martinez, Grand Jury Staff Secretary, has been indispensable, and working with her has been a joy.

Richly deserving of salutations is the Grand Jury itself. Over the last year members spent many days per week on the sixth floor of the courthouse. They were dedicated to completing the necessary tasks in order to produce work of great quality. I wish to thank those jurors. The goal of the work is ultimately to make a positive difference in the lives of the citizens of San Joaquin County. I think that goal has been achieved.

Lastly, I wish to express appreciation for the opportunity to lead this year's Grand Jury. It has been one of the most memorable experiences in my lifetime.

Sincerely,

A handwritten signature in cursive script that reads "Ward Downs". The signature is fluid and elegant, with a long horizontal flourish extending to the right.

Ward Downs, Foreperson  
2014-2015 San Joaquin County Grand Jury

## Roster of 2014-2015 Grand Jurors

### Executive Committee

|                                      |          |                                     |
|--------------------------------------|----------|-------------------------------------|
| Ward Downs<br>Foreperson             | Stockton | Retired - Educator                  |
| Howard Seligman<br>Vice Foreperson   | Stockton | Attorney                            |
| Eric Grunder<br>Secretary            | Stockton | Retired - Newspaper reporter/editor |
| Victoria Nevarez<br>Sergeant-at-Arms | Stockton | Customer Service - Utility Company  |

---

|                      |          |                                       |
|----------------------|----------|---------------------------------------|
| Denise Mathews       | Manteca  | Retired - Director of Risk Management |
| Susan Blackston      | Lodi     | Retired - City Clerk                  |
| Thomas Caldwell, Sr. | Stockton | Retired – San Joaquin County          |
| Gordon Deckelmeier   | Lathrop  | Financial Manager                     |
| Faye Gibbs           | Ripon    | Retired                               |
| Misty Glover         | Stockton | Specialist - Financial                |
| Betty Hollars        | Tracy    | Accounting Manager                    |
| Jeanne Kerr          | Stockton | Retired - Educator/Librarian          |
| Ralph Kerr           | Stockton | Retired - Federal Civil Service       |
| Hal Newman           | Lodi     | Retired - Retail Store Manager        |
| Bernard Oeding       | Morada   | Retired - Accountant                  |
| John Patterson       | Stockton | Retired - State employee              |
| Roslyn Watkins       | Tracy    | Retired - Law Enforcement             |





# 2014-2015 CIVIL GRAND JURY

Back row (left to right): Jeanne Kerr, Eric Grunder, Faye Gibbs, Gordon Deckelmeier, Hall Newman, John Patterson, Ralph Kerr, Tom Caldwell, Sr.  
 Front row (left to right): Betty Hollars, Denise Mathews, Victoria Nevarez, Ward Downs, Roslyn Watkins, Misty Glover, Bernie Oeding, Susan Blackston, Howard Seligman



## **2014-15 Grand Jury: Lessons Learned, Experiences, Suggestions, Thoughts and Observations**

### **Why did you get involved with the Grand Jury?**

“I returned for the challenges and the fun.”

“I liked the idea of team work vs working individually.”

“I had the time and I was curious about the function of the Grand Jury.”

“I was interested in providing a different contribution to the community by using my knowledge and experience in local government.”

“I got involved with the Grand Jury because I was curious as to exactly what it did.”

“My Grand Jury experience began with a summons which I reluctantly responded to. It is ending soon as an experience I truly enjoyed much more than I thought possible.”

“I was picked from the jury pool and thought it would be an interesting experience.”

“Shortly after I retired a prominent Stocktonian urged me to stay involved in the area’s civic life. His advice was sound. The civil Grand Jury provided a perfect vehicle.”

“My husband had a positive experience on a past civil grand jury; he encouraged me to apply once I retired.”

### **In what way did you think you might contribute?**

“My curious nature and previous experience in report writing and editing.”

“I felt that I could contribute based on my past professional and public service careers.”

“I didn't really know. However in my work I had conducted hundreds of interviews.”

“I thought I could contribute because I have been around Stockton all my life. I would also like to make things better around here for my grandchildren.”

“Using the knowledge that I learned as a prior grand juror I wanted to help newly elected grand jurors.”

“Questioning, writing, editing, and leadership.”

“I’m noseey and the Grand Jury service is similar to the work I did during my career: questioning, writing and editing with the added benefit of being able to judicially apply the subpoena.”

### **What aspects of jury service were interesting to you?**

“The interviews and deciding which were facts or findings and developing the recommendations.”

“Participating in interviews of witnesses, developing questions for them to gain the information need for the investigations being conducted.”

“I found the entire process interesting and at times very exciting. You never knew what to expect from an interview and where it would take the investigation.”

“The interviews, ride-alongs and tours have been quite an eye-opener this past year.”

“The entire process from preparing the questions to the actual interview itself.”

“Getting better at knowing who to interview, what questions to ask them, and how to ask those questions.”

“One of the great things about serving on the Grand Jury is that there are few restrictions on what jurors can investigate and how an investigation can change direction as information is developed.”

### **What are your memories of the ride-alongs with law enforcement?**

“Going code 3 on major streets of Lodi.”

“My memories of the ride-alongs were of how much the police officer's job can be very routine and how things can change and become dangerous very quickly.

### **What would you want others to know about the commitment to Grand Jury duties?**

“There is a lot more time involved than one day a week.”

“Much more time is expected of a grand juror than I had initially anticipated. It is most important that each grand juror have an open mind on the issues, be a good listener, and be dedicated to the work to be completed and to treat each member with respect.”

“Like any other volunteer organization – 20 percent of the people do 80 percent of the work; make a commitment to do your part. Never lose sight of the fact that "your" report is the "Grand Jury's" report.”

“Get involved, it's your duty and work hard to contribute so others aren't carrying your load.”

“The experience, while at times demanding, leaves you with a feeling of a job well done!”

“I thought our tours this year were informative and eye opening. The Grand Jury was treated well and for the most part given free access to many different county and city government agencies.”

“Go all in or don't go. Done right, Grand Jury service will require much more than the once-a-week meeting.”

“Be honest with yourself and with others about the time you are able to give, and, most importantly ... do it.”

“It can become somewhat time consuming, but it is important work and needs to be done by someone.”

### **If you were to start over, what would you do differently?**

“Never lose sight of the fact that "your" report is the "grand jury's" report.”

“No email committee meetings. Have at least one report ready to publish in January.”

“It would be helpful for me to have had better computer skills and make sure that each member is doing his/her job in a timely and productive manner.”

“Organization is the key to success. Be mindful of the demanding responsibility the foreperson has and respectful of the secretary's time. Take the time to review all meeting agendas and minutes of the city councils, board of supervisors, and school districts (and read between the lines).”

“I would have better computer skills.”

“Emphasize teamwork and explain more fully the importance of the role of a committee chair.”

“Vote on the agreed committee process that would include full committee participation in the creation of reports before sending to the Editorial Committee.”

“Push deadlines harder and earlier. Insist that committees meet face-to-face more often.”

### **What are your best memories of the last year?**

“The tours of DVI, CYA, County Jail and the new prison health care facility and the law enforcement presentations and also how a group of 17 can work together for a common goal.”

“I had the opportunity to meet and work with some wonderful people who are sincere in their commitment to contributing something positive to their respective communities and to San Joaquin County as a whole.”

“To become acquainted and to work with the members and staff as a member and assistant foreperson and the manner that each attempted to cooperate and to accommodate each another.”

“The whole year flew by because there is always something very interesting going on and you are working very closely with very interesting people to do good things.”

“I'm happy that I signed on to give what I could of my time and experience, and the interviews, ride-alongs and tours have been quite an eye-opener this past year.”

“Working with a group of hard working, intelligent, dedicated individuals.”

“Making great friends and realizing that the GJ can really make life a little better for many people.”

“Working with a diverse, dedicated group of people committed to making things better.”

“I was especially moved by the tour we had of the county jail library. It is a very well used activity and needs help. We learned that donations of books from the public are more than welcome. We learned that an inmate with a good book to read is often an inmate that does not get into further trouble.”

**Using only one word, describe your Grand Jury experience.**

“Enjoyable”

“Insightful”

“Rewarding”

“Satisfying”

“Herding cats ... OK, that’s two words. Sorry.”

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# *Investigations*



# **San Joaquin County Grand Jury**



## **It's Time to Come Together Consolidate the Eight 2014-2015 Case No. 1401**

### **Summary**

The 2014-2015 Grand Jury examined the Mokelumne Rural Fire District (MRFD). Jurors found several operational inadequacies after receiving a complaint alleging illegal activities, political misconduct, and bargaining in bad faith. The Grand Jury found evidence to support some of the complainant's allegations. In addition, the jury found evidence of violations of the Ralph M. Brown Act, inadequate oversight of administrative duties, improper practices by the board of directors and ineffective leadership.

Other rural fire districts were inspected to gain an understanding of how they are operating in comparison to Mokelumne Rural Fire District. The Grand Jury found that several districts are suffering financial stress. Some have entered into various service agreements with each other so they can continue to operate without jeopardizing the protection and safety of the public.

The Grand Jury found:

- Mokelumne Rural Fire District administrative and fiscal operations were ineffective
- Mokelumne Rural Fire District administrative operations were fiscally irresponsible
- Other fire districts are having financial problems; they find it necessary to enter into various agreements with each other to stay solvent
- The subject of consolidation has been considered

The Grand Jury recommends consolidation of fire protection districts at the sub-regional level and with expanded territory consisting of:

- Waterloo-Morada Fire District
- Mokelumne Rural Fire District
- French Camp-McKinley Rural Fire District
- Montezuma Fire Protection District
- Linden-Peters Fire District
- Clements Rural Fire District
- Woodbridge Fire District
- Liberty Fire District

## **Glossary**

|                                       |                                                                                                                                                            |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CalPERS</b>                        | California Public Employees' Retirement System                                                                                                             |
| <b>Consolidation</b>                  | The merger of two or more special districts creating a single entity                                                                                       |
| <b>Fire Engineers</b>                 | Also known as Firefighters                                                                                                                                 |
| <b>Good ol' boys</b>                  | A group of people operating in a relaxed or informal manner, strong loyalty to family and friends                                                          |
| <b>Joint Powers Agreement</b>         | A contract between special districts in which the special districts agree to perform services, cooperate with, or lend its powers to that special district |
| <b>JRUG</b>                           | Joint Radio Users Group                                                                                                                                    |
| <b>LAFCo</b>                          | Local Agency Formation Commission                                                                                                                          |
| <b>Municipal Service Review (MSR)</b> | A LAFCo service review of independent special districts and other entities within San Joaquin County                                                       |
| <b>MRFD</b>                           | Mokelumne Rural Fire District                                                                                                                              |
| <b>NORCO</b>                          | North County Automatic Aid Agreement – a prearranged emergency response plan between fire districts with no need for mutual aid request                    |
| <b>Ralph M. Brown Act</b>             | Also known as the Brown Act – laws governing open meetings for public bodies                                                                               |

**Shared Services Agreement**

A resource-sharing contract enacted between two business entities that have agreed to come together and share a common resource in order to benefit from shared resources to save on very critical resources

**SOI**

Sphere of Influence

## **Background**

The Mokelumne Rural Fire District was formed in 1947. The District provides fire protection, suppression and prevention, inspection, plan check, water rescue, urban search and rescue, and emergency medical services. The District's service boundary is approximately 64 square miles and is located in northern San Joaquin County between the Mokelumne River and Live Oak Road. The District serves the communities of Lockeford and Victor. The majority of the District is designated for agriculture and includes various wineries. The MRFD is bounded by five other County rural fire districts including Liberty, Clements, Linden-Peters, Woodbridge, and the City of Lodi Fire Department. Since 1984 Lodi has annexed more than 373 acres and removed this territory from MRFD. Currently, the City of Lodi's Sphere of Influence (SOI) boundary encompasses about 151 acres or 0.7 percent of MRFD's total territory.

The MRFD has a five-member governing body. Board members are elected at large and serve four year terms. The District's staff consists of 27 paid employees: three fire captains, six fire engineers, 16 on-call firefighters, a temporary fire chief, and an administrative assistant. The District operates one fire station that is staffed with a minimum of one captain and two fire engineers per shift.

When the Grand Jury first examined the Mokelumne Rural Fire District jurors found the administration's operational practices in disarray. Although the District did have proper documentation, such as adequate policies, procedures, and training manuals, the administrative practices and board oversight were deficient. The fire chief and administrative assistant implement the day-to-day operations of the district. Witnesses interviewed by the Grand Jury reported that some of the District's problems have occurred for decades due to inadequate leadership. The fire chief position was usually held by fire chiefs who had retired from full-time leadership positions with other area fire departments. The position was categorized as "Temporary Fire Chief". The District could not afford to hire a full-time fire chief due to budgetary constraints.

In March of 2014, the temporary fire chief, a retiree from another fire department, abruptly resigned after exhausting the number of hours allowed by the California Public Employees' Retirement System (CalPERS). The administrative assistant had just been terminated due to allegations of embezzlement. Ultimately, the administrative assistant was arrested for the alleged embezzlement. Financial records indicated that the board of directors did not have internal controls over District finances, which created the opportunity for the alleged embezzlement. Funds were being spent even though bills for essential services were not being paid, which resulted in important needs, such as phone services, being temporarily suspended. The fire chief had to use personal funds to get the services immediately restored, because it was more expedient than the normal process. The Grand Jury learned that during the lack of phone services there was no loss of any calls for services from the public. The Grand Jury also found

evidence of conflicts among the board members, prompting one member to abruptly resign with little notice.

The Grand Jury found that the board of directors operated like a “good ol’ boys” club. This relaxed manner of operating resulted in violations of the Brown Act. For example, at one board meeting, directors voted on an item that was not on the agenda that cost the District a large sum of money and the board meeting agendas were not consistently posted as required.

According to financial records and witnesses, after the administrative assistant was terminated, embezzlement of funds continued to occur. The District had not made any changes or cancellation of credit card accounts that allowed continued access by the terminated administrative assistant. When the District became aware of the unauthorized use of credit cards they were then canceled.

The District’s fire captains were expected to carry out their normal duties as they tried to perform the duties of the terminated administrative assistant and the resigned fire chief, but were not adequately prepared.

The fire engineers had been operating without a contract for four years. At one of the board meetings jurors observed that the board of directors spent only 18 minutes in a closed session meeting to discuss a contract.

As the Grand Jury’s investigation progressed, jurors observed the fire District beginning to pull itself out of the ashes of disastrous consequences caused by reoccurring problems. The Grand Jury discovered from witnesses and news articles that this was not the first time an employee took advantage of the district’s finances. On April 13, 1996, it was reported by The Stockton Record and the Lodi News Sentinel newspapers that an ex-fire chief was terminated for misuse of district funds. It was also reported by The Stockton Record on May 8, 2000; the MRFD was struggling to stay financially stable. Since the District’s finances had taken another hit, the District is still in the process of financial recovery. The Mokelumne Rural Fire District’s Board of Directors began to gain control of some of the District’s problems. MRFD has entered into a Shared Services Agreement with the Waterloo-Morada Fire District. It has begun the process of self-correction under new and more effective leadership.

There was a noticeable improvement after the Shared Services Agreement with the Waterloo-Morada Fire District was put in place. On August 4, 2014 the Shared Services Agreement was signed and implemented sharing the fire chief and administrative assistant from the Waterloo-Morada Fire District. The Mokelumne Rural Fire District now has a checking account to pay reoccurring bills, alleviating excessive cost of late payment charges and the threat of suspended services that are vital to the community. The District and its personnel currently have an employment contract that is acceptable to both parties. There is some fine tuning needed but the workers have agreed to work with management on the health care portion of the contract at a later date. An election of two new board members who appear to have experience of board operations has also occurred.

## **Reasons for Investigation**

After receiving citizen complaints, the Grand Jury started its investigation. The complaints alleged that the District was operating illegally, engaged in political misconduct, bargaining in bad faith, and imposing contractual items against the will of the bargaining group. The Grand Jury found these and more violations to be substantiated. Ineffective leadership created anxiety and added stress among the firefighters who put their lives on the line to protect citizens and their property. Mokelumne Rural Fire District's finances were in disarray.

## **Method of Investigation**

Through interviews, research of documents, including financial records, attendance at board meetings and tours of more efficient fire districts, jurors gained insights about the Mokelumne Rural Fire District.

### **Materials Reviewed**

- Mokelumne Rural Fire District's:
  - Policy Binder
  - Procedures Manual
  - Budgets
  - Final Audit Report (2014)
  - Agendas and Minutes
  - Grievance filed by Labor Unit
  - MOU Negotiations Memo from Board of Directors
- The Ralph M. Brown Act Manual
- Shared Services Agreement between Waterloo-Morada Fire Protection District and Mokelumne Rural Fire District
- French Camp-McKinley Fire District Organizational Chart
- Administrative Assistant Contract
- Documents from San Joaquin County Auditor's Office
- LAFCo Municipal Service Review, October 21, 2011
- 2014-2015 Final Budget for Montezuma Fire Protection District
- Agendas and Minutes of Montezuma Fire Protection District board meetings
- Various news articles

### **Interviews Conducted**

- Five Mokelumne Rural Fire District personnel
- Mokelumne Rural Fire District Board of Directors
- Four retired and current fire chiefs
- A representative from LAFCo
- A representative from San Joaquin County Auditor's Office

### **Sites Visited**

- Mokelumne Rural Fire District

- Tour of the Montezuma Fire Protection District station 1
- Tour of the Montezuma Fire Protection District at the Stockton Metropolitan Airport

## **Facts, Findings, and Recommendations**

With the increased risk of wildfires in San Joaquin County, rural fire districts have become vital to the protection and safety of the county's rural areas. The Grand Jury found that there are some areas within San Joaquin County's jurisdiction that are not covered by any fire district. These areas are known as the Unprotected Delta Region. According to the *2011 Final Municipal Service Review (MSR)*:

*This area is a portion of the Delta encompassing approximately 540 residential units and a population of approximately 2,400 people without fire protection. This can be corrected by either amending the boundaries of the district or establishing a SOI and authorizing out-of-agency service approvals pursuant to §56133 of the California Government Code. The long term solution is to establish a fire district for the entire area or annex to an adjoining district. Since there is no tax base, there is no revenue to pay for fire service. A special tax assessment would need to be passed by the voters. Authorization of out-of-agency service agreements may discourage the creation of a new district or annexation to another which ultimately should be the goal.*

Because the county fire districts are in the business of fire safety, protection, and saving lives, they do respond to these areas and in some cases pay the expense of providing services. The areas are not covered by any fire district because the property owners have opted out of paying the taxes required for fire protection. Most of the fire districts have exhausted the tax bases obtained from property owners under the voter-approved real property tax initiative limitations. There are few financial resources left to cover the rising cost of doing business. All witnesses interviewed, except one, agreed that consolidation of some of these rural fire districts is inevitable and needed. While it is not realistic to expect a fire district to ignore an emergency situation, it is expected that all measures be taken to recoup the costs incurred.

## **Discussion**

### **1.0 Mokelumne Rural Fire District Was Operating Under Ineffective Leadership**

Prior to the Grand Jury's inquiry, the fire chief abruptly resigned after exhausting the number of hours allowed by the California Public Employees' Retirement System (CalPERS). The fire chief left written instructions to the board and assigned the various duties to three fire captains. At a board meeting, some members complained that they were not advised of the resignation, which indicated that all board members were not included in the distribution of vital information. Although the captains were not experienced in performing administrative duties, they assumed the duties expected of the fire chief and administrative assistant. Jurors observed that one of the board members appeared to be bitter and argumentative at the board meeting. That board member later resigned.

Although there was a meeting agenda, the board meeting was chaotic and unorganized. The atmosphere was tense and the board members did not follow the agenda. The directors appeared to ignore

parliamentary procedures. The board members approved an \$8,000 expenditure that was not on the agenda. The board of directors ignored a prior request from union representatives for items to be included on the agenda. The requested agenda items were omitted, but quarrelsome discussions ensued on those items anyway.

The Grand Jury found that a review of Board minutes and agendas showed no evidence that income and expense reports or a year-to-date spread sheet of finances were presented at Board meetings until August 2014, when a Shared Services Agreement was signed. The lack of checks and balances and a general absence of administrative oversight created the opportunity for embezzlement of public funds. A review of District records revealed that forms required to be filed by Board members were missing.

The board's actions appeared to be violations of the rules of order and the Brown Act. Jurors interviewed board members and employees of the Mokelumne Rural Fire District and were informed that this was typical conduct. Some called the operations of the board of directors "the good ol' boys" club.

Testimony revealed that some of the problems with the leadership dated back decades. Previous fire chiefs left due to terminations and forced resignations and the problems continued to perpetuate themselves. Problems were not resolved. They continued under the leadership of each new fire chief.

On a positive note, the Grand Jury determined the Mokelumne Rural Fire District employees are well trained. Their training records were up to date. The training of firefighting personnel and reserve firefighters is ongoing and continuously updated. Fire captains, fire engineers and reserve firefighters are highly qualified with numerous certifications, firefighting skills, and emergency medical training. The station was found to be clean and orderly. The firefighting equipment, which may need some updating, appeared to be well maintained and in good condition.

The Mokelumne Rural Fire District entered into a Shared Services Agreement on August 4, 2014 with the Waterloo-Morada Fire District for shared services of their fire chief and administrative assistant. The chaos previously observed seemed to dissipate. The new fire chief brought organizational skills to the board meetings and there seemed to be less tension. The new administrative assistant organized MRFD records, and provided financial reports at the meetings. The meetings were conducted in accordance with the requirements of the Brown Act. Two newly-elected board members appear to be experienced in the operation of board activities. An employee contract was ratified by the District's board and the firefighters' union within three months of the changes in the District's administration. This agreement resulted because District officials and employees finally came to the table dedicated to transparency, diligence, and fairness.

## **Findings**

- F1.1** Mokelumne Rural Fire District was operating under ineffective leadership.
- F1.2** District policies and procedures were not always followed.
- F1.3** The Shared Services Agreement helped bring stability to the District.

## **2.0 Financial Stresses and Service Agreements among Various Fire Protection Districts**

An examination of the financial records of MRFD revealed several inadequacies. The former administrative assistant, who has been charged with the theft of public funds, had full control of the district's finances. There was no administrative oversight or checks and balances adequately performed by the board.

The board of directors has a Financial Review Committee that was supposed to provide oversight. Previously when there was a financial problem, the administrative assistant explained the deficiency without documentation. The finance committee accepted the explanation without documentation. The administrative assistant's job description was created by the administrative assistant. The self-authored contract gave the position the same benefits as the unionized personnel, including a uniform allowance. This employee had access to credit cards that resulted in unauthorized cash advances and personal use. There were large expenditures for office supplies, inappropriate expenditures at Costco for items that were not used by the district. Re-occurring bills were paid late and resulted in late fees. On one occasion phone services were suspended.

As a result of fiscal irresponsibility the board approved an \$8,000 expenditure, on a non-agenda item, for a LifeLock Protection Plan for the employees and their family members. This was purchased to protect against identity theft and fraud due to the alleged embezzlement. Free protection options were available but not considered. Possible options that would have provided the same protection are a letter to one of the three major credit reporting agencies, the local credit bureau, and notification to the employees' banking institutions.

Due to the limited financial resources from their tax base, an unlikely possibility of passing a bond measure, and the economic recession, the already financially strapped District was struggling financially.

The Grand Jury examined other fire district operations in San Joaquin County and discovered that MRFD financial situation was not unique. According to the 2011 Final Municipal Service Review, *"The Districts rely primarily upon property tax, special taxes, fees for service, and development mitigation fees and have little opportunity to increase fees. The most significant financing constraints for fire services are legal requirements that limit property taxes and require voter approval of new taxes and tax increases."* Because the district's financial resources are primarily tied to property taxes, districts have been greatly affected by the recent downturn in the economy. It was noted that several fire districts throughout the county have joint powers agreements and shared service agreements with each other to deal with the rising cost of operations. Some of the districts' agreements are shown in the table below:

| District                 | Mutual Aid Partners                                                                     | Automatic Aid                                                                                | Other Agreements                                              |
|--------------------------|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| Clements                 | Neighboring fire districts,<br>Statewide Mutual Aid,<br>Countywide Mutual Aid           | Liberty                                                                                      | JRUG                                                          |
| Collegeville             | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | None                                                                                         | JRUG                                                          |
| Farmington               | French Camp-McKinley,<br>Statewide Mutual Aid,<br>Countywide Mutual Aid                 | Linden, Escalon, Collegeville,<br>Oakdale Rural (Stanislaus<br>County)                       | JRUG                                                          |
| French Camp-<br>McKinley | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | Montezuma, Lathrop-Manteca                                                                   | JPA with Montezuma                                            |
| Liberty                  | North county fire districts,<br>CalFire, Statewide Mutual Aid,<br>Countywide Mutual Aid | Clements, Woodbridge,<br>Mokelumne, and Cosumnes FD                                          | JRUG                                                          |
| Lincoln                  | Neighboring Fire Districts<br>Statewide Mutual Aid,<br>Countywide Mutual Aid,           | None                                                                                         | None                                                          |
| Linden-Peters            | Jenny Lind Fire District,<br>Statewide Mutual Aid,<br>Countywide Mutual Aid             | Neighboring fire districts for<br>specific incident types                                    | NORCO with Mokelumne,<br>and Waterloo-Morada<br>JRUG          |
| Mokelumne                | Mutual Aid upon request,<br>Statewide Mutual Aid,<br>Countywide Mutual Aid              | Neighboring fire districts                                                                   | Shared Services Agreement<br>with Waterloo-Morada,<br>NORCO   |
| Montezuma                | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | French Camp-McKinley Fire and<br>Lathrop-Manteca                                             | JPA with French Camp-<br>McKinley JRUG                        |
| Thornton                 | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | Cosumnes FD                                                                                  | JRUG                                                          |
| Waterloo-Morada          | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | Linden Peters, Woodbridge and<br>Mokelumne                                                   | Shared Services<br>Agreement with<br>Mokelumne, NORCO<br>JRUG |
| Woodbridge               | Statewide Mutual Aid,<br>Countywide Mutual Aid                                          | Waterloo-Morada, Mokelumne,<br>Liberty, Stockton, and Consumes<br>Community Service District | JRUG                                                          |

*Table 1-1*

Some districts are currently operating under consolidations, as indicated below:

- City of Lodi-Woodbridge Rural Fire District
- City of Manteca-Manteca/Lathrop Rural Fire District
- City of Tracy-Tracy Rural Fire District
- Woodbridge Rural Fire District-Forest Lake Rural Fire District

On March 16, 2015, The Record reported “3 fire protection agencies join forces, nix borders”. The story stated that the North County Automatic Aid Agreement (NORCO) includes a prearranged emergency response plan among the Linden-Peters, Mokelumne and Waterloo-Morada fire districts. Consolidation would eliminate the need for any other agreements among the fire districts.

A survey of rural fire districts found a variety of financial situations as shown in Table 2.1. Of the 12 districts surveyed, pay and benefits were not found to be consistent. Some districts operate without full-time firefighters, and they utilize a volunteer reserve staff. The districts that operate with an all-

volunteer staff are more solvent. Several districts have had budget shortfalls during the last five years, when property taxes fell after reevaluation of properties during the economic downturn. Eight of the 12 districts surveyed have approved special assessments resolutions to keep up with the cost of doing business. Some of the districts do not have a sustained equipment replacement fund to cover the cost of required replacement and maintenance of equipment.

#### SAN JOAQUIN COUNTY RURAL FIRE PROTECTION DISTRICTS

| Fire District Name                    | Budget Shortfalls<br>(5 yrs.) | Special Assessments | Budget Limitations for<br>Equipment |
|---------------------------------------|-------------------------------|---------------------|-------------------------------------|
| Clements Rural Fire District          | No                            | Yes                 | No                                  |
| Collegeville Fire Protection District | No                            | Yes -2002           | No                                  |
| Farmington Fire District              | No                            | No                  | No                                  |
| French Camp-Mckinley Fire District    | Yes                           | Yes                 | No                                  |
| Liberty Fire District                 | No                            | No                  | No                                  |
| Lincoln Fire District                 | No                            | No                  | No                                  |
| Linden-Peters Fire District           | No                            | No                  | No                                  |
| Mokelumne Rural County Fire District  | Yes                           | Yes                 | Yes                                 |
| Montezuma Fire Protection District    | No                            | Yes                 | No                                  |
| Thornton Fire District                | Yes                           | Yes                 | Yes                                 |
| Waterloo-Morada Fire District         | Yes                           | Yes                 | Yes                                 |
| Woodbridge Fire District              | Yes<br>2009-2012              | Yes                 | Yes (2 vehicles)                    |

Table 2-1

## Findings

- F2.1** Mokelumne Rural Fire District operated in a fiscally irresponsible manner.
- F2.2** There were operational improvements with Mokelumne Rural Fire District after the Shared Services Agreement was implemented with Waterloo-Morada Fire District.
- F2.3** Of the 12 districts surveyed eight have reported financial problems. Those districts have found it necessary to enter into agreements with other districts to stay solvent.

### 3.0 Consolidation of Rural Fire Districts

The Grand Jury found at least eight fire protection districts that could benefit from consolidation into one effectively run organization. San Joaquin LAFCo completed a study of the Rural Fire Protection Districts of San Joaquin County. This was reported in the latest “*Municipal Service Review*” (MSR), which included information about other governmental service providers. The Grand Jury’s focus was restricted to the services provided by the rural fire districts at the sub-regional level. The MSR considered several governance alternatives for fire protection in San Joaquin County. Some of the alternatives have already been instituted. The agreements already in place are JPAs, Shared Services Agreements, automatic aid agreements, and realignment of district borders, just to name a few. However, there is a need for more agreements.

The MSR reported that:

*One or more affected special districts or registered voters by petition could initiate actions for consideration by LAFCo to consolidate all of the fire protection districts into a single special district. A consolidated agency could provide unity of command, eliminate duplicate positions, and allow strategic planning for the unincorporated area and within those portions of the cities which are served by fire protection districts. Areas not presently served would not be included in the consolidated agency. Depending upon the number of board member(s) selected for the new agency, more than 87 elected and appointed positions could be eliminated.*

Further:

*Consolidated agencies inherit the property tax allocation of the previous districts. Since all districts were formed prior to Proposition 13, the districts would convey property tax revenue of over \$23.1 million. The special tax assessments which the voters in several of the fire protection districts have adopted would also transfer to a consolidated agency and would add an additional \$6.5 million of available revenue. Under this situation, it would be appropriate to form service zones to retain the current revenues received from the special assessments. No new sources of revenue would become available as a result of consolidation.*

If LAFCo were to initiate the proposal for consolidation, a petition of 10 percent of the voters or landowners within any affected district would trigger an election over the entire region. If an election was required, a majority of voters within each district must approve the consolidation. Failure to receive a majority vote in any one district would terminate a consolidation of the other fire protection districts. If a proposal for consolidation were initiated by a district board or by petition of property owners or registered voters, a 25 percent threshold of voters or landowners would trigger an election.

### Finding

**F3.1** The Grand Jury found that the subject of consolidation has been considered by LAFCo and some of the rural fire districts.

## **Recommendations**

**R3.1** No later than November 1, 2015 LAFCo and the county's rural fire districts are to coordinate a series of meetings to consider the operational benefits of consolidation. The districts should include, but are not limited to, the following:

- Waterloo-Morada Fire District
- Mokelumne Rural Fire District
- French Camp-McKinley Rural Fire District
- Montezuma Fire Protection District
- Linden-Peters Fire District
- Clements Rural Fire District
- Woodridge Fire District
- Liberty Fire District

**R3.2** No later than December 31, 2015 LAFCo and the fire districts are to begin providing quarterly updates of the consolidation progress to LAFCo Commissioners, rural fire districts boards of directors, and the public.

## **Conclusion**

The Grand Jury understands that consolidation or reorganization of the fire districts at the sub regional level is difficult and may take years to fully implement. Many of these districts were formed over 70 years ago, are steeped in tradition, and are closely identified with the communities they serve.

Lack of leadership, financial problems, and alleged criminal activity as discovered in MRFD show what can happen when there is a lack of oversight and transparency.

Although there are many options available to join forces and services of the fire districts, the Grand Jury believes Consolidation of Districts at Sub Regional Level is the best path going forward. Consolidation would provide financial stability, unity of command, equality of employee pay and benefits, and elimination of redundancies. Strategic planning opportunities would be positive aspects to a more efficient delivery of safety, protection, and service to the public. Depending upon the number of board members selected for the new agency more than 87 elected and appointed positions could be eliminated. Many of these positions are not salaried and there would not be a substantial loss of income to individuals who serve on these boards. Many of the board members have served on the board of fire districts for many years.

The foremost objective to consider for any consolidation is the level of service. The quality of service for fire protection must be maintained or improved as a result of any changes in organization. Financial considerations also must be given great weight. Governments, including special districts, must consider new ways to do business given the present fiscal constraints. Services must be effective and efficient.

## **Disclaimers**

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).

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report:

Mokelumne Rural Fire District shall respond to Findings F1.1, F1.2, F1.3, F2.1, and F2.2

Waterloo-Morada Fire District shall respond to findings F1.3, and F2.2

Waterloo-Morada Fire District, Collegeville Fire Protection District, French Camp-McKinley Rural Fire District, Liberty Fire District, Montezuma Fire Protection District, Thornton Fire District, Woodridge Fire District, and Clements Rural Fire District shall respond to Finding F2.2 and Recommendation R3.1 and R3.2.

The Local Agency Formation Commissioners shall respond to Finding F3.1 and Recommendations R3.1, and R3.2.

Mail or hand-deliver a hard copy of the response to:

Honorable Lesley Holland, Presiding Judge  
San Joaquin County Superior Court  
P.O. Box 201022  
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## Appendix

*Final Municipal Service Review of Rural Fire Protection Districts of San Joaquin County Prepared by San Joaquin Local Agency Formation Commission October 21, 2011*

[http://www.co.san-](http://www.co.san-joaquin.ca.us/lafco/Fire%20District%20Study/FINAL%20Fire%20MSR_Oct%202011_.pdf)

[joaquin.ca.us/lafco/Fire%20District%20Study/FINAL%20Fire%20MSR\\_Oct%202011\\_.pdf](http://www.co.san-joaquin.ca.us/lafco/Fire%20District%20Study/FINAL%20Fire%20MSR_Oct%202011_.pdf)

- *Page 4 Unprotected Delta Region*
- *Pages 4-5 Financial Ability of the Agencies to Provide Services*
- *Page 8 Approach to governance alternatives for fire protection in San Joaquin County*
- *Pages 59-60 Consolidation has the advantage of providing more efficient service...*
- *Pages 63-64 Consolidation of Districts at Sub-Regional Level*
- *Pages 123-125 Mokelumne Rural County Fire District*

## **San Joaquin County Grand Jury**



### **STOCKTON UNIFIED SCHOOL DISTRICT**

#### **Rubber Stamped School Buses Still Idle**

#### **Lack of Board of Trustees Oversight**

**2014-2015 Case No. 1407**

#### **Summary**

Stockton Unified School District Governing Board of Trustees (Board) unanimously approved a lease-purchase of 31 buses for \$2,046,955 on June 11, 2013. These buses were to be used to transport special needs students.

However, on August 12, 2014 the Board authorized the sale of all 31 buses with six of seven trustees approving. The seven trustees participated in both meetings. These buses were not being used to transport students, and Stockton Unified School District (SUSD) staff recommended sale of the buses.

During its review of the above events, the Grand Jury discovered ineffective management of the special needs student bus services. Beginning in late 2014 staff initiated changes to improve transportation cost controls.

Among the most important Grand Jury findings were that information provided by SUSD staff to the Board:

- To consider the \$2,046,955 purchase of the 31 buses was too brief, inadequate, and generated no discussion
- To approve the sale of the 31 buses was very brief, inadequate, and generated very limited discussion

The Grand Jury also found that special education transportation services lack adequate management and cost control.

The Grand Jury recommends improving purchase and sale reporting processes so that the Board can clearly understand the magnitude of its decisions. The new processes and procedures for the cost control improvement for special needs student transportation needs to be monitored to ensure productive results.

## **Background**

The June 2013 approval to purchase 31 school buses designed to meet the requirements of special needs students was initially reported in The Record newspaper. The Record also reported the approval to sell the 31 buses in August 2014. The Grand Jury decided to review school bus transportation in San Joaquin County's nine largest school districts. Stockton Unified School District's school bus operation was chosen for further review.

In late 2013 the transportation department manager retired. The staff hired a temporary transportation manager to manage operations while a search for a replacement transportation manager was conducted. In October 2014 a new department manager, with more than 20 years' experience, was hired.

In March 2014 the staff retained the services of Fiscal Crisis & Management Assistance Team (FCMAT) to perform an evaluation of SUSD transportation department. The consultant started its review of the department in mid-June 2014. Its findings and recommendations were presented to District staff in late October 2014. FCMAT, Executive Summary, page 5 states:

*FCMAT's analysis indicates an annual estimated cost of \$3,302,965.36 (in 2013-14 dollars) for the district to operate the special education transportation now provided by Storer Transportation. This is approximately \$128,615 more than the current contract. Thus, based on cost alone, it does not appear advantageous for the district to operate this service. ... If the district chooses not to operate the routes currently operated by Storer Transportation, it will need to determine what should be done with the 31 buses it purchased.*

While the FCMAT evaluation was in process the Board approved selling the 31 buses in August 2014. FCMAT provided other advice for transportation operations and noted a lack of control of special needs transportation services.

## **Reasons for Investigation**

The Grand Jury selected the SUSD transportation department for further review as a result of articles in The Record. The newspaper noted the Board approval of the initial purchase of the 31 buses and then 14 months later approving the sale of those 31 buses was unusual. The Board's action warranted further review.

In late 2014 FCMAT noted discrepancies in reporting services provided for special needs students. The number of special needs students offered bus transportation was more than double the number being offered in similar size California school districts. In addition, the consultant noted the transportation department was providing 106 more passengers bus service than had been requested by the Special Education Department. This was 10 percent higher than the requested service.

## **Method of Investigation**

The Grand Jury reviewed responses from San Joaquin County's nine largest school districts regarding school bus operations, policies, and procedures. The FCMAT report was also reviewed. Four members of SUSD's management staff were interviewed. The transportation department was toured and the 31 school buses were confirmed to be stored on site. Board minutes, agendas, backup materials including staff reports, and audio recordings for the meetings of June 11, 2013 and August 12, 2014 were reviewed.

## **Facts, Findings, and Recommendations**

### **1.0 Board Approvals**

On June 11, 2013 the Board was presented a one page staff report (see Appendix A) to consider the lease-purchase of 31 new school buses in the amount of \$2,046,955. No supporting documents were included with the staff report to justify or provide essential information for its analysis. No alternative was provided for Board consideration. The audio recording of the meeting confirmed that staff did not provide a verbal report at the meeting and the Board did not ask any questions prior to its unanimous vote to approve the lease-purchase as recommended by staff.

On August 12, 2014 the Board was presented a one page staff report (see Appendix B) to consider the sale of the 31 new buses. No supporting documents were included with the staff report to justify or provide essential information for its analysis. Staff's analysis section stated, *"The buses are no longer being used to transport students,"* when in actuality the buses were never used to transport students. No alternative was provided for Board consideration. The audio recording of the meeting confirmed brief questioning by a Board member of the Chief Business Official (report preparer), who stated when asked whether there would be a loss by selling the buses, *"It's not anticipated that we're going to have a loss. It will be covering total cost of purchasing the buses, interest, as well as any other incidental costs that were incurred by the district."*

## Findings

**F1.1** The Board approved the purchase of 31 new school buses without proper analysis.

**F1.2** The Board approved the sale of 31 new school buses based on a factually inaccurate staff report without proper analysis.

## Recommendation

**R1.1** By September 30, 2015, the Board should adopt a policy requiring that as part of any proposal for the purchase or sale of District assets exceeding \$30,000, District staff will provide a full accounting and justification as required by the California Education Code and financial reports best practices to ensure fiduciary duty is adhered to.

## 2.0 Special Education Transportation Services

FCMAT gathered data in mid-June 2014 for its transportation review. In its October 2014 report the following was stated:

*... District documentation identifying the number of special education students varies from 3,750 to 4,000 students. An audit of both the district's and Storer's transportation routing indicates that the district is transporting approximately 1,143 students who have Individualized Education Programs (IEPs) identifying transportation as a related service. However, data from the district's special education program suggests that approximately 1,037 students are identified as requiring transportation as a related service. This is a difference of approximately 106 students.*

*Based on the district's current student enrollment of approximately 36,382, the district is identifying approximately 11% of its students as needing special education services. This is slightly higher than the state average. However, the district is identifying approximately 1,143, or approximately roughly 30% of these special education students as requiring transportation, which is more than double the rate in other districts most recently reviewed by FCMAT. A high rate of identification of special education students as requiring transportation as a related service suggests a liberal approach to identification by the district's IEP team.*

*The high rate of identification results in the use of additional transportation resources. The district needs to aggressively review its internal identification process by fully implementing both the decision tree (transportation guiding questions for the IEP team) and the special education transportation guidelines shared with FCMAT during its fieldwork.*

*Staff indicated that implementing transportation guidelines and guiding questions for the IEP assessment team was being finalized and would be introduced in the coming school year. ...It would benefit the district to critically examine both the percentage of special*

*education students being identified as requiring transportation service, and the costs for the added service.*

## **Finding**

**F2.1** The District has transported more special education students than requested by the special education program.

## **Recommendation**

**R2.1** By December 31, 2015, the Board should direct District staff to complete implementation of the transportation guidelines and guiding questions for IEP team assessments including additional training specific to transportation department support. In addition the Board should require quarterly staff reports about progress on implementation of the transportation guidelines.

## **Conclusion**

The Board needs to improve its oversight approval of large purchases and large disposals of assets. In addition the special student transportation changes need to be implemented promptly to reduce costs.

No single staff work product is more central to good decision making than agenda reports. These reports help the Board define projects, understand complex problems, consider alternative solutions, and determine courses of action. Agenda reports present recommendations involving millions of dollars in public assets, and also assure that administrative processes are managed in a fair and open manner. In addition, the reports are used by the public to understand and participate in the decision-making process of the community. Radio, television, and newspaper reporters use the reports to research and explain issues to their respective audiences.

Well-written agenda reports, therefore, serve many important purposes. Without clear, complete, and accurate agenda reports, the opportunity for informed public participation in the decision-making process is diminished and the Board's ability to make good public decisions is made more difficult. Questions remain unanswered: Why did the District "need" to purchase the buses? Was it staffs' intention to replace current buses or establish their own fleet in lieu of contracting with Storer Transportation? Why were the buses never put into service? Is it realistic to believe the District will not incur a loss when the buses are eventually sold? The Board decisions to approve the purchase and sale of the (never used) 31 buses based on ill-conceived and incomplete staff analysis illustrates the importance of Board financial oversight. The 31 buses still remain idle.

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## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The Stockton Unified School District Governing Board of Trustee shall respond to each Finding and Recommendation contained in this report.

Mail or hand deliver a hard copy of the response to:

Honorable Lesley Holland, Presiding Judge  
San Joaquin County Superior Court  
P.O. Box 201022  
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## **Appendix**

- A. Staff Report dated June 11, 2013; Subject: Adoption of Resolution No. 12-54 to Approve the Lease-Purchase of Thirty-One (31) New School Buses
- B. Staff Report dated August 12, 2014; Subject: Approval of Resolution No. 14-05 of the Governing Board of the Stockton Unified School District Approving the Sale of Thirty-One (31) School Buses

## APPENDIX A – Staff Report for Lease-Purchase of 31 new school buses

### STOCKTON UNIFIED SCHOOL DISTRICT

June 11, 2013

Subject: Adoption of Resolution No.12-54 to Approve the Lease-Purchase of Thirty-One (31)  
New School Buses

#### INTRODUCTION

The Stockton Unified School District has determined a need to purchase thirty-one (31) new school buses to continue to expand its service to District special needs students. The District has identified a bid let for new school buses that may be utilized to achieve this purpose.

#### ANALYSIS

The student population requiring special needs transportation services has incrementally increased over the years. Currently, approximately 1200 students require such services which are mandated by each student's Individualized Education Plan. At the conclusion of the 2009-10 school year the District purchased, with the assistance of San Joaquin Valley Air Pollution Control District funds, 43 new buses for special needs transportation. During the past two school years the District's Special Needs Bus Operators and the Transportation Department have proven that the District not only provides a better, more customer-oriented service to our students and parents, but also accomplishes this task more cost effectively. In providing this service, the District is able to be more accountable for the delicate needs of our most vulnerable students, those with disabilities. The District also assumes more control of operations and can ensure more cost efficient fleet management. By increasing its fleet, the District is able to secure jobs within the District.

Various options for the purchase of new buses have been considered, including a review of several contracts currently in existence. As a result, District staff has identified a competitive bid contract established by the Hemet Unified School District that offers the best value for the District's purposes. Utilization of this bid, as per the guidelines of Public Contract Code, Section 20118, would provide the District with a systematically sound and prompt method of acquiring new buses whose characteristics and configurations best suit the needs of the District.

Because current funds are not adequate to facilitate this needed purchase, staff has determined that a five-year lease-purchase agreement would be economically advantageous in meeting the District's needs. The total five-year cost for the buses, including finance charges, is not to exceed \$2,046,955.00

FUNDING SOURCE/FISCAL IMPACT: General Fund - Transportation

#### RECOMMENDATION

It is recommended that the Governing Board adopt Resolution No. 12-54 to approve the lease-purchase of thirty-one (31) new school buses and award the bid to Bus West Inc. of Woodland, California in the amount not to exceed \$2,046,955.00

Prepared by: Mr. Carlos Chicas, Director of Transportation

Approved by: Mr. Wayne Martin, Chief Business Official

Action Item No. 9.1

## APPENDIX B – Staff Report for Sale of 31 School Buses

STOCKTON UNIFIED SCHOOL DISTRICT

August 12, 2014

**SUBJECT:** Approval of Resolution No. 14-05 of the Governing Board of the Stockton Unified School District Approving the Sale of Thirty-One (31) School Buses

### INTRODUCTION:

In June 2013, the Stockton Unified School District purchased thirty-one (31) new school buses that were to be used to transport the District's special needs students. To finance the purchase of those buses, the District entered into a five (5)-year lease-purchase agreement with Kansas State Bank of Manhattan ("Bank"). Because the buses are not being used to transport students, District staff is recommending that the buses be sold to an interested buyer.

### ANALYSIS:

In June 2013, the District purchased thirty-one (31) new school buses to transport the District's special needs students. The financing for the purchase of the buses was structured as a lease-purchase with the Bank. Pursuant to the lease-purchase agreement, the District is required to make five (5) annual payments totaling \$2,032,736 (\$1,923,522.94 in principal and \$109,213.06 in interest). The District's most recent payment to the Bank was on July 15, 2014. There are three (3) remaining payments.

The buses are no longer being used to transport students, and District staff does not expect that the buses will be needed in future years. The Bank has agreed to allow the District to prepay the outstanding balance owed by the District, assuming there is a buyer for the buses. District staff has determined that they may be able to sell the buses at a total purchase price, plus interest, and other incidental items.

**FUNDING SOURCE:** General Fund -- Transportation

### RECOMMENDATION:

It is recommended that the Governing Board adopt Resolution No. 14-05 approving the sale of the thirty-one (31) school buses.

Prepared by: Ms. Michele A. Huntoon, CPA  
Chief Business Official

Approved by: Dr. Steven Lowder, Superintendent

Action Item No. 9.4

## **San Joaquin County Grand Jury**



### **Charity Begins at Home**

### **Unattended For-Profit Donation Bins Proliferate Across County**

### **2014-2015 Case No. 1410**

#### **Summary**

San Joaquin County residents give cash and donated goods each year valued in the millions of dollars. The United Way of San Joaquin County alone collects nearly \$4 million in cash donations annually. County residents also give to area charities that operate retail outlets where donated goods are sold to support the agencies' local charitable programs. Often residents drop off their donations at collection points located in area parking lots.

In recent years, unattended donation bins placed by for-profit companies have been appearing in cities and unincorporated areas of San Joaquin County. These unattended donation bins are having a significant negative impact on donations to non-profit charities. There are no ordinances in San Joaquin County and its cities to enable authorities to regulate these for-profit unattended donation bins that are often simply dropped on private property without the owner's consent. In addition, there are safety and liability issues that are not addressed.



**Photo of an unattended donation bin in San Joaquin County.**

The 2014-2015 Grand Jury decided to investigate the proliferation of these for-profit unattended donation bins.

Among the most important findings are:

- San Joaquin County and its cities do not have ordinances that specifically address the placement and monitoring of for-profit unattended donation bins
- These unattended donation bins are operated by for-profit companies that make millions of dollars nationwide, exporting textiles for sale at a profit in Africa and South America
- The profits go to out-of-state corporations that pay no local or state taxes and provide no benefit locally

Among the most important recommendations are:

- San Joaquin County and its seven cities should enact ordinances to regulate for-profit unattended donation bins
- Ordinances should require operators to obtain written consent from property owners before placement of any unattended donation bins, and limit the liability of property owners and their agents who remove unwanted bins from their property

## Background



**Unattended bin, Roselawn Avenue, east of Mission Road, Stockton**

Several non-profit charities, such as Goodwill Industries of San Joaquin Valley, operate parking lot collection sites. Their sites are operated with an attendant present and with the permission of the property owner. There is little chance someone making a donation at one of these sites can be confused about who they are donating to or if that agency is a non-profit or for-profit entity.

In recent years, for-profit companies have moved into San Joaquin County. Although it is unclear exactly how many companies are involved, bins owned by two for-profit operators, USAgain and Discover Books, can be found throughout the County. Collection bins operated by the companies are unattended, often include only small signs to indicate donations are not tax deductible, and do not spell out that donations are being exported to foreign countries.

In 2011, USAgain, according to the company's website, collected 60 million pounds of clothing from more than 10,000 donation sites in 17 states, including California. Much of the donated

material was sold for a profit in Africa and Latin America.

Despite the proliferation of the for-profit unattended collection bins, the Grand Jury found no uniform city or county ordinances to regulate the placement and maintenance of for-profit bins. Neither are there



**Unattended bin, Country Club Boulevard, Stockton**

ordinances protecting property owners nor removal companies hired in cases where bins are placed on private property without permission and the property owner elects to have the bin removed. Unattended donation bins can attract graffiti, vandalism, and become a public nuisance. They can also be safety hazards when people crawl inside to keep warm or to remove items from the bins.

In February 2012, then-Assemblywoman and now Sen. Cathleen Galgiani, D-Stockton, introduced Assembly Bill 1978 in the California Legislature. It would have required the written consent of a property owner before a collection bin could be placed on his or her property. It also provided a mechanism for the removal of the unapproved bin without liability to the property owner.

The bill had bipartisan support. In August 2012, the bill passed the Assembly on a 70-8 vote and the Senate on a 21-13 vote, but the next month it was vetoed by Gov. Jerry Brown. "I support the author's goal of giving property owners more tools to enforce their property rights," the governor said in his veto message. "However, I believe the language can be more narrowly crafted to avoid unintended consequences to local charities and nonprofits." Gov. Brown did not spell out what "unintended consequences" concerned him. Some non-profits, such as

D.A.R.E America and Planet Aid, had voiced opposition, arguing that the bill would have unfairly restricted their fundraising efforts.

## **Reasons for Investigation**

The Grand Jury chose this issue because of concerns about the proliferation of unattended, for-profit collection bins in San Joaquin County and its cities. It was discovered that non-profit charities, such as Goodwill Industries and The Salvation Army, do not operate unattended donation bins. Further, they place their collection bins only with the written consent of property owners.

Witnesses testified that donations to some non-profit charities have decreased in the last few years, a change partially blamed on the proliferation of for-profit bins. The Grand Jury was told some donors believe that their donations are being made to non-profit charities. No local jobs are created by these for-profit companies, although USAgain has many employees at its Hayward warehouse.

Donations placed in unattended bins create profits for out-of-state organizations and create problems when they are placed on private property without written consent from property owners. Many property owners want them removed, but are unable to contact the operator. They are hesitant to pay the cost of

removal in case they are held liable for the bin. Other property owners choose to ignore the bin rather than pay for its removal.

## **Method of Investigation**

### **Materials Reviewed**

- Grand Jury surveys of code enforcement officials in San Joaquin County, Stockton, Lodi, Manteca, Lathrop, Escalon, Ripon, and Tracy
- Grand Jury survey of 12 property owners who have for-profit unattended donation bins located on their premises
- State Assembly Bill 918 (2010), now identified as Welfare and Institutions Code, §150-153 ([www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=150-153](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=150-153))
- State Assembly Bill 1978 (2012), vetoed by the governor
- Stockton, Lodi, and Tracy building codes
- Informational handouts from Goodwill Industries
- Elk Grove and Ceres ordinances governing the placement of unattended collection bins

### **Interviews Conducted**

- San Joaquin County code enforcement staff
- Lathrop code enforcement staff
- Stockton Police Department code enforcement staff
- Goodwill Industries of San Joaquin Valley, Inc., and Shelter Thrift and Donation Center management staff
- Security staff at Lowe's on Hammer Lane in Stockton
- Property owners who have had for-profit donation bins on their property

### **Sites Visited**

- Central Valley headquarters of Goodwill Industries of San Joaquin Valley, Inc.
- Shelter Thrift and Donation Center retail outlet in Stockton
- Fourteen for-profit unattended donation bin sites including locations in Tracy, Manteca, Lodi, Lathrop, Stockton, and the unincorporated county

## **Facts, Findings, and Recommendations**

The 2014-2015 Grand Jury reviewed responses from San Joaquin County and all of its cities to a Grand Jury survey sent in October 2014. These responses show that cities and the county government have reduced staffing in their code enforcement and local police departments. Although code enforcement officers are generally responsible for code violations, limited staff means that they only investigate when there are complaints. Some California cities, including Elk Grove, Rancho Cordova, and Ceres, have comprehensive ordinances that regulate unattended donation bins. Stockton and Lodi have ordinances directed at recycling collection sites, but not for unattended donation bins.

Different codes and policies in San Joaquin County and its cities have contributed to confusion about unattended donation bins in parking lots and on street corners. Survey responses from San Joaquin County and its cities revealed a lack of ordinances that specifically address unattended donation bins, or simply classifies them as recycling centers (see appendix). In its response to the Grand Jury survey, San Joaquin County officials, for example, said that "a donation box, whether or not for profit, placed on the site of an existing retail establishment would be considered an accessory use to the business operation." However, more than half of the property owners questioned in an informal survey found they had not given permission for the placement of unattended donation bins on their premises.

Different approaches to for-profit collection bins give a flavor of the various methods some cities have used, for example:

- Lodi ordinances refer to "recycling facilities", but do not specifically mention items often given as charitable donations such as books, shoes, household goods, and, clothing.
- Tracy cites Welfare and Institutions Code, §§150 to 153, which sets forth definition of donation bins as well as disclosure requirements that must be printed on each donation bin to provide information to consumers. That information must include the name of the organization benefiting from the donation, contact information, and how their donations would be used. Each bin also is required to have clear information on whether the donation bin is owned by a charitable or commercial (for-profit) entity.

## **Findings**

**F1.1** San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

**F1.2** City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

**F1.3** Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

**F1.4** Donations to out-of-state for profit operators divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

## **Recommendation**

**R1** By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- Shall require written consent from property owners before placement of any donation bin on private property
- Shall obligate the bin owner to maintain it
- Shall obligate the bin owner to hold property owners and their agents harmless from liability who remove unwanted bins from their property

- Shall require donation bins meet or exceed the requirements found in the California Welfare and Institutions Code, §§150 to 153
- Shall adopt sanctions for any violations of the ordinance provisions
- Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts

## **Conclusion**

Unattended donation bins operated by for-profit organizations are unsightly and can become safety hazards. They deprive local charities of donations that benefit our community, providing services and jobs. They generally do not make clear that the bins are placed by for-profit companies, which confuses donors making charitable donations. Understaffed code enforcement offices and confusion about whose responsibility it is to remove unwanted bins has led to lack of action. Implementation of local ordinances is an important tool in preventing this problem and will generate additional income to the county and its cities that could go toward code enforcement efforts.

## **Disclaimers**

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).

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The San Joaquin County Board of Supervisors as well as the city councils of Stockton, Manteca, Tracy, Lodi, Lathrop, Ripon, and Escalon shall respond to each Finding and Recommendation contained in this Report.

Mail or hand-deliver a hard copy of the response to:

Honorable Lesley D. Holland, Presiding Judge  
 San Joaquin County Superior Court  
 P.O. Box 201022  
 Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## Appendix

|                       | CODE<br>ENFORCEMENT<br>STAFFING | ORDINANCES FOR<br>DONATION BINS              | PERMITS<br>REQUIRED         | COMPLAINT<br>DRIVEN |
|-----------------------|---------------------------------|----------------------------------------------|-----------------------------|---------------------|
| SAN JOAQUIN<br>COUNTY | 2 full-time,<br>1 part-time     | None                                         | Yes                         | Yes                 |
| ESCALON               | 2 full-time                     | None                                         | Yes                         | Yes                 |
| LATHROP               | 1 part-time                     | None                                         | No                          | Yes                 |
| LODI                  | 2 full-time                     | Yes - SEC 17.36                              | May require<br>deposit      | Yes                 |
| MANTECA               | 2 full-time,<br>1 part-time     | None                                         | Yes                         | Yes                 |
| RIPON                 | 1 part-time                     | None                                         | No                          | Yes                 |
| STOCKTON              | 26 full-time,<br>2 part-time    | No - SMC 16.20.020,<br>Table 2-2             | Yes, on private<br>property | Yes                 |
| TRACY                 | 4 full-time,<br>1 part-time     | AB918, Sec. 10.08,1070,<br>W&I Code §150-153 | Yes, on private<br>property | Yes.                |



## **San Joaquin County Grand Jury**



### **STOCKTON MUNICIPAL UTILITIES DEPARTMENT**

#### **Struggling in the MUD**

**2014-2015 Case No. 1412**

#### **Summary**

Most citizens take for granted that when they turn on the tap, flush the toilet or watch the rain fill the street gutters that systems are in place to make sure safe drinking water arrives, wastewater is eliminated, and the street drains carry away potential flood waters. These services are vital to the health and safety for all of us, but until there is a problem their functions are often “out of sight, out of mind.” Unfortunately, an investigation by the Grand Jury prompted by a complaint indicates serious, ongoing problems within the operations of Stockton Municipal Utilities Department (MUD). These problems exist, in large part, because of three major events over the years, including privatizing MUD operations for several years, the City bankruptcy, and staff turnover that has undermined much of the utility’s important institutional knowledge.

This is not to suggest that there are not good, dedicated, and knowledgeable people at MUD; it is to suggest there are problems that must be addressed in an open and transparent way.

Among the findings uncovered by the Grand Jury:

- There is ground settling at the relatively new Intake Pump Station (IPS) on the San Joaquin River that has resulted in the failure of electrical and plumbing fixtures.
- Corrosive hydrogen sulfide (H<sub>2</sub>S), which builds up in sewer lines, has gone untreated for more than two years. This exacerbated infrastructure defects, resulting, among other things, in the collapse of a 36-inch sewer pipeline under a community garden, ongoing residential complaints about odors, and raising safety concerns for MUD workers.

- The City bankruptcy intensified staff turnover, including critical technical personnel and top management. Pay and benefit cuts have resulted in low staff morale.

Addressing these problems will not be quick, easy or cheap, but unless they are addressed future costs will be much higher. With that in mind, among the Grand Jury's recommendations are:

- The Director of MUD report at least annually to the Stockton City Council about ground settling and related repairs and costs at the IPS.
- The Director of MUD report plans for dealing with the hydrogen sulfide problems in the City's sewer lines.
- The City Manager conduct a salary survey of MUD positions with an eye toward bringing wages and benefits into line with other utility departments or water agencies so the City can better compete for these valuable employees.

## **Glossary**

|                       |                                                          |
|-----------------------|----------------------------------------------------------|
| <b>CCTV</b>           | Closed-Circuit Television                                |
| <b>Cal/OSHA</b>       | California/Occupational Safety and Health Administration |
| <b>City</b>           | City of Stockton                                         |
| <b>CMMS</b>           | Computer Maintenance Management System                   |
| <b>COSMA</b>          | City of Stockton Metropolitan Area                       |
| <b>CSPA</b>           | California Sportfishing Protection Alliance              |
| <b>DWTP</b>           | Delta Water Treatment Plant                              |
| <b>Grade 5</b>        | Grade 5 Structural Defect – Immediate Failure Likely     |
| <b>HJTA</b>           | Howard Jarvis Taxpayers Association                      |
| <b>H<sub>2</sub>S</b> | Hydrogen Sulfide                                         |
| <b>IIPP</b>           | Injury and Illness Prevention Program                    |
| <b>IPS</b>            | Intake Pump Station                                      |
| <b>MUD</b>            | Municipal Utilities Department                           |
| <b>NES</b>            | Network Environmental System                             |
| <b>PEL</b>            | Permissible Exposure Limit                               |
| <b>ppm</b>            | parts per million                                        |
| <b>SEWD</b>           | Stockton East Water District                             |
| <b>SSOs</b>           | Sanitary Sewer Overflows                                 |
| <b>TWA</b>            | Time-Weighted Average                                    |

## **Background**

The Municipal Utilities Department provides administration, planning, operations, and maintenance for the three utilities owned by the City: Water, Sanitary Sewer, and Stormwater. These services are provided to residential, commercial, and industrial customers within the City of Stockton Metropolitan Area (COSMA). MUD also furnishes wastewater services to several San Joaquin County service areas and special districts outside the City. MUD operates and maintains a water system that obtains raw water from wells and surface water it treats and delivers to connections via a pumping and piping system. MUD operates and maintains a wastewater system that collects wastewater from connections via a network of sewer pipes that flow by gravity to pump stations throughout the system. The pump stations send the wastewater to a treatment plant that removes the regulated pollutants from the wastewater prior to discharge in the San Joaquin River. MUD operates and maintains a stormwater system with pump stations that remove rainwater to control flooding.

MUD has undergone significant challenges and organizational transitions during the past 15 years. Most significantly, in 2003 the Stockton City Council awarded a \$600 million, 20-year contract to a private company, OMI/Thames, to manage and operate its utilities. Control of the utilities was returned to the City when the service contract with OMI/Thames terminated in March 2008.

On March 24, 2009 the Stockton City Council approved a settlement with the Howard Jarvis Taxpayers Association (HJTA). The association sued in an effort to invalidate the City's practice of charging water, sewer, and stormwater customers a fee in lieu of property tax on their utility bills, transferring that revenue to the City's general fund and the infrastructure reinvestment fund, and expending it for general governmental purposes (e.g. Stockton Arena and Ballpark). In the settlement with HJTA, the City agreed to repay the City utility fund approximately \$34 million over a 30-year period.

On July 28, 2009 the City Council approved a settlement agreement in the form of a Consent Decree with the California Sportfishing Protection Alliance (CSPA). The City had been sued by the CSPA that alleged the City had violated the Federal Clean Water Act for discharges of pollutants in violation of the 2002 National Pollution Discharge Elimination System Permit. The CSPA's research identified over 1,500 overflow/spills, or almost 25 spills per 100 miles of sewer line per year. The main objective of the Consent Decree was a spill reduction performance standard of five reportable sanitary sewer overflows (SSOs) per 100 miles of sewer line. It also mandated that the City complete a one-time closed circuit television (CCTV) inspection of all sanitary sewer pipelines between 6- and 72-inches in diameter in order to assess the condition, rehabilitation, and replacement of its pipelines. Because the City did not meet the requirement of five SSOs per 100 miles of sewer lines by 2013, the CSPA agreed to extend the end date of the Consent Decree to December 31, 2015. In a multi-million dollar effort, over 737 miles of sewer mains (24-inch and smaller pipes) have been cleaned and inspected. The remaining work will focus on the CCTV inspection and cleaning of 115 miles of sewer mains 24-inch and larger.

On May 26, 2010 the City Council declared a state of emergency based on fiscal circumstances. The City's fiscal health continued to deteriorate in fiscal years 2010-11 and 2011-12 despite various cost cutting measures. The Delta Water Supply Project, completed on June 26, 2012, was the largest capital improvement project in Stockton's history at \$217 million. Two days later, on June 28, 2012, the City filed a petition for Chapter 9 bankruptcy relief.

On March 4, 2014 the City Council approved a settlement and paid \$2,675,000 to Preston Pipelines, which had sued for breach of contract related to the Delta Water Supply Project Intake and Pump Station Facility (Preston served as the general contractor).

On February 25, 2015 the City's Plan of Adjustment, or "bankruptcy exit plan," became effective. The remaining \$30 million still owed from Stockton's general fund to its water and wastewater funds (as stipulated in the HJTA settlement) was extinguished as a result of the bankruptcy. Though MUD operates with enterprise funds, which are separate from the City's general fund, it suffered collateral damage during the bankruptcy and now struggles with issues related to significant staff turnover, aging infrastructure, and impaired ability to recruit and retain skilled technical staff, due to below-market compensation.

## **Reasons for Investigation**

The Grand Jury received a complaint on September 10, 2014 alleging mismanagement of MUD assets and failure to comply with safety regulations or to address infrastructure deficiencies. Allegations included safety and infrastructure concerns related to ground elevation changes on non-pile supported areas of the levee at the inlet site for the Delta Water Supply Project; hydrogen sulfide (H<sub>2</sub>S) exposure to employees and its corrosive effects on infrastructure; and descriptions of a stressful work environment and low employee morale. Through its investigation the Grand Jury found that H<sub>2</sub>S treatment had been discontinued in 2012, allowing pipe corrosion to worsen, and in one instance caused a 36-inch sanitary pipeline collapse in Boggs Tract Community Garden; solid manhole covers were used to decrease H<sub>2</sub>S odor complaints particularly in Southern Industrial Collection Systems 7 and 8 [See *Appendix A*]; Cal/OSHA violations and fines were levied against the utility; and MUD was compelled to devote significant staff time and millions of dollars toward efforts to comply with the CSPA Consent Decree. During the time the utility was operated by OMI/Thames equipment appeared to be operated in a "run-to-fail" mode. In a "run-to-fail" strategy, assets are deliberately allowed to operate until they break down, at which point reactive maintenance is performed. No maintenance, including preventative maintenance, is performed on the asset up until the failure event. This left MUD with prematurely deteriorated assets, the effects of which the utility continues to address.

## **Method of Investigation**

The 2014-15 Grand Jury's investigation was comprised of MUD facility tours, staff interviews, and the review of hundreds of pages of materials provided by MUD, the City's Administrative Services department, as well as publicly available documents.

### **Materials Reviewed**

- MUD Safety Committee meeting minutes (January 2013 to August 2014)
- Communications to and/or from Caltrans, Cal/OSHA, Environmental Protection Agency
- Maps indicating location of pipes with Grade 5 structural defects
- MUD Safety Policies and Procedures

- Reports of odor complaints to MUD (2008 to November 2014)
- Agreement for Purchase of Goods 50% Sodium Hydroxide (2013)
- Work order for repair due to sanitary pipeline collapse in Boggs Tract Community Garden
- National Pollution Discharge Elimination System Permit
- CCTV inspection schedule
- California Sportfishing Protection Alliance Consent Decree, Annual Reports, SSO Cause Determination and Reduction Action Plan
- MUD and Public Works budgetary information
- Preston Pipelines, Inc., Santa Clara County Superior Court Case No. 113CV252946
- Reclamation District 2029 communication pertaining to Intake Pump Station
- Kleinfelder Preliminary Assessment of Ongoing Settlement DWSP Intake Facility (October 29, 2012)
- HDR Levee Settlement Monitoring DWSP Intake and Pump Station Facility (February 12, 2015)
- State Water Resources Control Board regulations

### **Interviews Conducted**

- During this investigation the Grand Jury interviewed 16 people consisting of the complainant, management and staff at various levels and divisions of MUD, as well as Public Works and the City's Administrative Services department.

### **Sites Visited**

- Delta Water Treatment Plant and the Intake Pump Station (November 3, 2014)
- Regional Wastewater Control Facility (November 10, 2014)
- Duck Creek Pump Station (November 14, 2014)
- Boggs Tract Community Garden (November 20, 2014)
- Van Buskirk Park Utility Vault (December 2014 and March 2015)

## **Facts, Findings, and Recommendations**

### **1.0 Delta Water Treatment Plant/Intake and Pump Station Facility**

On November 3, 2014 the Grand Jury toured the Delta Water Treatment Plant (DWTP) and Intake Pump Station (IPS). The primary purpose of the Delta Water Supply Project was to provide a secure, reliable supplemental supply of water for the City of Stockton Metropolitan Area (COSMA), to replace declining and unreliable surface water supplies, and to protect and restore groundwater resources. The DWTP is capable of supplying up to 30 million gallons per day of drinking water to Stockton residents. The IPS is located on the south bank of Empire Tract, 6,000 feet south of the intersection of West Eight Mile Road and Correa Road at the San Joaquin River. The IPS draws water from the Sacramento-San Joaquin Delta for treatment and distribution to the COSMA. The facility was constructed on an existing levee, which was



raised and widened with engineered fill. The existing levee is underlain by a layer of 10 to 25 feet of peat soils, which are compressible and have low strength. All non-pile supported areas on the levee, including the generator yard, are subject to changes in soil compaction. The February 12, 2015 HDR, Inc. Levee Settlement Monitoring report states that the total settlement along the 54-inch diameter water line between July 2, 2012 and January 14, 2015 was nearly one foot.



**Electrical repairs necessitated by ground settling on the north side of the IPS pump house.** Source: Bid Request - Delta Water Supply Project, Intake Pump Station

At the time of the Grand Jury's tour signs of ground elevation changes were visible at the IPS, e.g. sections of concrete and asphalt were out of alignment and were roped off with yellow caution tape. [See *Appendix B*] During its investigation, the Grand Jury learned that the employee bathroom at the IPS had not been functional since August 2013, due to ground settlement. Despite repeated staff requests, a portable toilet was not installed until March 2015.

The Grand Jury requested copies of all work orders for the IPS and were informed that the system that manages and produces the work orders, referred to as the Computer

Maintenance Management System (CMMS), was

not producing work orders from 2012 through 2014, due to City staff oversight. In 2015 this system became operational. MUD acknowledged that maintenance activities had been performed at the IPS, but not tracked through the CMMS. Information provided to the Grand Jury regarding repairs completed at the IPS since 2012 included approximately \$8,000 for fish screen cleaner replacement, \$1,000 for alarm repair, and more than \$27,000 to replace a flexible expansion joint on the 54-inch raw water pipeline.

A Cal/OSHA complaint was filed regarding conditions at the IPS and MUD acknowledged in its January 2, 2015 response that the area experienced subsidence. As a result, electrical wiring was exposed at the north side of the pump house and the generator yard. Repairs by an outside contractor were expected to proceed by the end of March 2015 at a cost of nearly \$40,000. An assessment of the potential settlement in the area of the IPS by its design engineer HDR, Inc. was to be completed by April 30, 2015.

In order to operate the DWTP, minimum certification levels of T5 for the chief plant operator and T3 for the shift operator are required in accordance with Title 22 of the California Code of Regulations. "Chief Plant Operator" is defined as the person who has overall responsibility for the day-to-day, hands-on, operation of the water treatment facility. DWTP currently has only one staff member with a Grade T5 certification. Without a T5 operator the DWTP has to shut down and water is drawn from other sources, such as Stockton East Water District (SEWD), which draws its water from New Hogan and Melones reservoirs. MUD also needs to pump wells to meet peak demand during hot, dry months. When this occurs, the City is charged a pumping tax. The table below, provided by MUD, shows the pumping tax paid since 2012. The February 28, 2015 payment of more than \$1 million covered the

calendar year of 2014. The DWTP was shut down for approximately four months in 2014 due to low staffing levels.

| Stockton East Water District Pumping Tax |                |                       |       |                |
|------------------------------------------|----------------|-----------------------|-------|----------------|
| Payment Date                             | Amount         |                       | F/Y   | YTD            |
| 02-28-12                                 | \$630,385.34   |                       | 11/12 | \$630,385.34   |
| 10-25-12                                 | \$597,985.64   |                       | 12/13 |                |
| <b>2012 Total</b>                        |                | <b>\$1,228,370.98</b> |       |                |
| 02-28-13                                 | \$77,721.22    |                       | 12/13 | \$675,706.86   |
| 10-01-13                                 | \$339,550.93   |                       | 13/14 |                |
| <b>2013 Total</b>                        |                | <b>\$417,272.15</b>   |       |                |
| 02-28-14                                 | \$425,535.81   |                       | 13/14 | \$765,086.74   |
| 10-01-14                                 | \$403,790.47   |                       | 14/15 | \$403,790.47   |
| <b>2014 Total</b>                        |                | <b>\$829,326.28</b>   |       |                |
| 02-28-15                                 | \$1,122,000.00 |                       | 14/15 | \$1,122,000.00 |

Source: MUD

## Findings

**F1.1** Non-pile supported areas at the IPS are shifting as evidenced by changes in ground elevation, which has caused concern about employee safety and the integrity of equipment and buried electrical systems and conduits in the generator yard and other areas.

**F1.2** The DWTP was shut down for approximately four months in calendar year 2014 due to low staffing levels, which caused an increase in the SEWD pumping tax and further depleted declining water supplies.

## Recommendations

**R1.1** The City Council direct (*through the City Manager*) the Director of MUD to complete needed repairs at the IPS by September 2015 to ensure work areas are safe for employees and to report back annually to the Council regarding the status of IPS ground settling and associated repairs and costs.

**R1.2** The City Council direct (*through the City Manager*) the Director of MUD to determine what portion of the SEWD pumping tax is directly related to DWTP shutdown due to the lack of qualified staff in calendar year 2015 and report findings to the City Council by January 2016.

## 2.0 Safety and Infrastructure Concerns

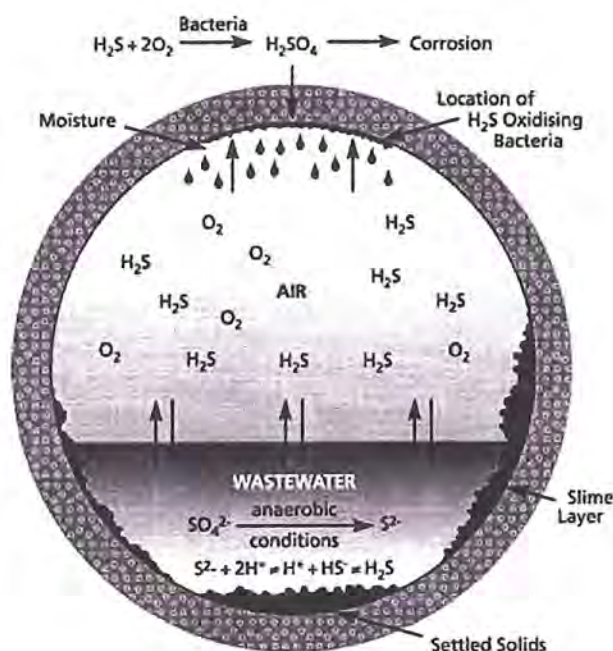
The complainant alleged that mismanagement of assets included the discontinuance of H<sub>2</sub>S treatment. This prematurely corroded infrastructure and worsened a problem that was known to exist for many years. H<sub>2</sub>S is a colorless, flammable, extremely hazardous gas with a “rotten egg” smell. H<sub>2</sub>S is produced by bacterial breakdown of organic materials and human and animal wastes (e.g. sewage). H<sub>2</sub>S can also exist as a liquid compressed gas. H<sub>2</sub>S is heavier than air and may travel along the ground. It collects in low-lying, enclosed, and poorly ventilated areas such as manholes and sewer lines. The

primary route of exposure is inhalation and the gas is rapidly absorbed by the lungs. People can smell the “rotten egg” odor of  $H_2S$  at low concentrations in the air. However, with continuous low-level exposure, or at high concentrations, a person loses the ability to smell the gas even though it is still present.

Nearly 200 customer odor complaints were received by MUD from 2008 to 2013, the most recent data requested, of which more than 30 were specifically described as a “rotten egg” smell. One method MUD used to deal with these complaints was to install solid non-vented manhole covers.

A visual inspection of the utility vault at the southeast corner of Van Buskirk Park showed significant deterioration on the two-year-old vault doors and hinges. [See *Appendix C*] In December 2014, a strong “rotten egg” odor emitted from open spaces on top of the vault. Additionally, the cyclone fence and posts, 26 feet from the utility vault, showed signs of corrosion.

The Grand Jury learned there has been no treatment of  $H_2S$  in the sewer lines since 2012. Reasons cited included lack of staff to manage the program and continued study of best treatment methods. In its March 19, 2012 proposal, USPeroxide noted that the City was interested in conducting a demonstration program for evaluating the use of sodium hydroxide along the industrial segment of Systems 7 and 8 as part of a comprehensive plan to control  $H_2S$ -related odors and corrosion. It was noted that sodium hydroxide (caustic shocking) is widely used in the municipal wastewater treatment industry to control sulfide generation within collection systems. Caustic shocking involves adding periodic slugs of sodium hydroxide solution into the wastewater in order to inhibit the growth of sulfide-reducing bacteria within the conveyance system. USPeroxide conducted a survey of the Stockton Industrial Collection System from May 2011 to April 2012. It issued an executive summary on June 5, 2012 recommending biofilm shocking along with continuous chemical treatment as the most effective treatment method for the Stockton Industrial Collection System.



On June 25, 2014 AMEC Environmental & Infrastructure reported the following in its Commercial Wastewater Discharge Analysis (Sulfide Evaluation Sodexo/Aramark Stockton, California), section 2.0 Existing Conditions:

*A previous study done for the City by USPeroxide found annual average  $H_2S$  levels of 100-250 parts per million (ppm) with spikes exceeding 1,000 ppm at many sampling locations in the City's wastewater collection system; to put these numbers in perspective,*

*the U.S. Occupational Safety and Health Administration established a permissible exposure limit of 10 ppm H<sub>2</sub>S and a lethal concentration for five minute exposure is 800 ppm H<sub>2</sub>S. It was determined in that study that the majority of the H<sub>2</sub>S stemmed from industrial discharge to System 8. High concentrations ranging from 57-1,508 ppm H<sub>2</sub>S were measured from May 27 to June 3, 2014 downstream at Van Buskirk Park. H<sub>2</sub>S in wastewater collection systems stems mainly from biological activity in anaerobic slime layers. Sulfate and nutrients from the wastewater diffuse into anaerobic slime layers located on pipe walls and sewer debris where bacteria then reduce the sulfate to sulfide; this is typically referred to as biogenic sulfide. Biogenic sulfide then diffuses back into the main wastewater stream. Sulfide within the wastewater consists of both sulfanide and H<sub>2</sub>S, with the ratio depending upon PH. Only the H<sub>2</sub>S molecules can volatilize into gas. H<sub>2</sub>S volatilization increases with turbulence and is often found at forcemain transitions to gravity, hydraulic jumps, and siphons. Once in the gas phase, H<sub>2</sub>S not only poses a health threat to humans, but can also be oxidized to sulfuric acid in aerobic sections on the pipe wall by bacteria. Sulfuric acid then drips down the pipe wall back into the wastewater where it decreases alkalinity and can corrode concrete and metal infrastructure.*

AMEC concluded:

*The City has a significant sulfide problem in its wastewater collection system.... This impact can be mitigated by various treatment options, including bio-shock treatment or continuous chemical addition in the wastewater collection system.*

In response to a complaint filed with the San Joaquin County Environmental Health Department in August 2014, the MUD Deputy Director of Maintenance and Collections Systems on September 3, 2014 wrote:

*The City of Stockton Municipal Utilities Department is monitoring the hydrogen sulfide issue at two industrial collection systems in the southern part of the City's services area. These systems are known as System 7 and 8. They transport mostly industrial wastewater. The City has installed several Odalog meters in both systems. Odalog is a portable gas detector specifically designed for the wastewater industry. Recent hydrogen sulfide readings recorded per the Odalog, field observations by City Collections personnel and San Joaquin Valley Air Pollution Control District Inspector did not substantiate or confirm the dangerous levels alleged in the complaint. The City is investigating the issues in the complaint. The City has placed the Odalogs in manholes at Van Buskirk Park, Houston and 8<sup>th</sup> Street, and Houston and Fresno, in an effort to determine if there are problems with excessive H<sub>2</sub>S. ... Based on research of past and ongoing industry studies, it has been recommended to use a shock treatment with 50% sodium hydroxide reducing the hydrogen sulfide gas formation. The City will conduct a pilot study to evaluate the effectiveness of the chemical treatment to reduce odor. The start of the pilot study will begin this fall.*

Network Environmental Systems, Inc. (NES) was retained by MUD to assess potential worker exposures to H<sub>2</sub>S. NES reported that the Cal/OSHA permissible exposure limit (PEL) for H<sub>2</sub>S exposure is 10 ppm. The PEL represents a time-weighted average (TWA) exposure over the course of an entire

work shift. Cal/OSHA also has established a short-term exposure limit for H<sub>2</sub>S, which represents a 15-minute TWA of 15 ppm. Cal/OSHA has established a ceiling limit for H<sub>2</sub>S exposures of 50 ppm. The ceiling limit is that H<sub>2</sub>S concentration that should not be exceeded at any time during the course of a work shift. NES performed the worker exposure monitoring on September 29, October 2, and October 7, 2014. In its October 23, 2014 Worker Exposure Monitoring Report, NES Inc. stated that the highest measurement was collected from a worker preparing to replace a manhole on the System 7/System 8 sewer line, immediately following removal of the manhole cover. Initial H<sub>2</sub>S monitoring that was performed prior to removal of the manhole cover revealed H<sub>2</sub>S levels in the sewer to be greater than 400 ppm and immediately following removal of the manhole cover up to 9 ppm. NES concluded that MUD workers have the potential for work place exposures to H<sub>2</sub>S during the course of their assigned work. However, the results of the personal H<sub>2</sub>S monitoring that was performed during the three days of monitoring revealed no worker exposures that exceeded the worker exposure criteria (permissible exposure limit, short-term exposure limit, and ceiling concentration) as established by Cal/OSHA.

MUD reported in March 2015 that it intends to begin a pilot study during the summer of 2015, upon the completion of equipment installation, to determine the effectiveness of adding caustic soda (50 percent sodium hydroxide solution) at the manholes located at the intersections of Polk and Industrial, and Perlman and Duck Creek. This pilot study will be a full-scale test of the proposed treatment to determine if the method and/or chemical application are effective and if further evaluation is necessary to determine the long term application of the chemical.

The Grand Jury also learned that water infiltration occurs in certain deteriorated pipes when the tidewater level rises, which increases the amount of water going to the treatment plant, raising costs to the utility and ultimately its customers. A flow monitoring report is being analyzed by MUD to determine the extent of this problem. It is expected to be completed by mid-April 2015.

## **Findings**

**F2.1** Both the US Peroxide study in 2012 and the AMEC analysis in 2014 recommended biofilm shocking and/or continuous chemical treatment for H<sub>2</sub>S, yet none was conducted by MUD for more than two years, allowing continued sewer pipe corrosion.

**F2.2** The utility vault at the southeast corner of Van Buskirk Park is extensively corroded and at times emits a strong H<sub>2</sub>S odor, which raises concerns about public safety.

## **Recommendations**

**R2.1** The City Council direct (*through the City Manager*) the Director of MUD to make a presentation to the Council no later than September 2015 identifying the process and timeline to manage the H<sub>2</sub>S problem in the sewer pipeline system.

**R2.2** The City Council direct (*through the City Manager*) the Director of MUD to ensure the utility vault at Van Buskirk Park is safe for the public (i.e. determine H<sub>2</sub>S exposure level and integrity of corroded vault doors) and report back to the Council by September 2015 identifying what repairs are necessary, why the cyclone fence and posts 26 feet away are showing signs of corrosion, and what effect H<sub>2</sub>S exposure may have on people in the vicinity.

### 3.0 Management

The complainant placed blame for workplace difficulties, in part, on the fact that staff turnover, especially of management, has been significant. The Grand Jury confirmed the following:

- the Director of MUD was hired in March 2012;
- the Deputy MUD Director of Wastewater was hired in December 2012;
- the Deputy MUD Director of Collections and Maintenance was hired in February 2013;
- the MUD Finance Officer was hired in April 2013; and
- as the result of promotions, the Assistant MUD Director began in November 2013 and the Deputy MUD Director of Water Resources Planning began in July 2014.

The Municipal Utilities Department facilities operate 24/7 and are required to have skilled technical personnel in many of the positions. As of March 10, 2015 MUD had 217 approved positions, 27 were vacant. The table below shows the cost of overtime, which has risen to over \$1 million annually.

| <b>Overtime Costs of Municipal Utilities Department and Delta Water Treatment Facility</b> |           |                |
|--------------------------------------------------------------------------------------------|-----------|----------------|
| Fiscal Year                                                                                | Hours     | Amount         |
| 2012                                                                                       | 16,319.24 | \$646,831.11   |
| 2013                                                                                       | 22,965.94 | \$914,065.62   |
| 2014                                                                                       | 27,177.19 | \$1,093,666.23 |

Source: MUD

In March 2009 a MUD Business Plan was developed at a cost of more than \$25,000. Under “Urgent Action Items” the Plan recommended the development of a strategic succession plan to ensure that MUD had sufficient staff to operate and maintain its assets. Unfortunately, a succession plan was not implemented and, as predicted following the initiation and termination of the contract to privatize the utility, MUD went through frequent staff turnover. Worsening the situation was the subsequent bankruptcy of the City, which decreased employee salaries and benefits. Today MUD has a difficult time recruiting and retaining skilled technical personnel because it is competing with agencies offering significantly higher compensation. Loss of institutional knowledge is particularly detrimental in a critically important operation the size of MUD. During the Grand Jury’s investigation it became apparent that few MUD employees had an in-depth understanding of important historical matters related to the utilities.

In an April 23, 2014 response letter to the U.S. Environmental Protection Agency’s inspection of the City of Stockton’s Regional Wastewater Control Facility Tertiary Treatment Facility Risk Management Plan and Process Safety Management Program, the MUD Deputy Director of Wastewater wrote:

- Violation Section C; Prevention Program-Process Hazard Analysis: 68.67(e) Response: *“Due to a high turnover in the City of Stockton’s management team, the RMP/CalARP Process Hazard*

*Analysis sections were either not completed when the program was approved, or the history of the completed work has been lost.”*

- Section H; Risk Management Plan [40 CFR 68.19-68.195] Response: *“Due to a high turnover in the City of Stockton’s management team the RMP/CalARP emergency contact information was not changed within the 30 day time limit.”*

The complainant also identified a perceived conflict of interest due to management’s decision to assign the Deputy Director of Wastewater to serve in the capacity of Interim Safety Program Manager beginning in May 2013. Some employees expressed concern about the ability of a division supervisor to serve as an impartial and unbiased safety investigator. MUD’s Injury and Illness Prevention Program (IIPP) Section 5.3 states that, *“Noncompliance with any provision of this IIPP may subject...employee to disciplinary action”*; and Section 5.4 states, *“All employees shall be evaluated on compliance with safe work practices in their biennial performance appraisals.”* The classification of Safety Program Manager had previously been a full-time, independent position. MUD’s IIPP, Safety Policy Statement stipulates that, *“Employees should immediately report to their supervisor any conditions which they feel present a hazard to themselves, other employees, or the public.”* In spite of this, some employees continue to file complaints directly to Cal/OSHA.

On December 9, 2013 Cal/OSHA issued six citations against MUD with proposed penalties totaling \$14,810. One of the citations brought to light the need to develop numerous safety programs to adequately protect the health and safety of MUD’s employees. Because of the nature of the work performed, MUD requires 22 different major safety programs to meet Cal/OSHA requirements. A \$369,381 professional services contract with NES, Inc. was approved to evaluate, update, and develop the safety programs including training modules to educate staff on systems procedures and the use of specialized safety equipment. As of December 2014, six safety programs had been completed. It is expected to take two to three years to complete all the safety and training programs.

## **Findings**

**F3.1** MUD failed to develop a succession plan as recommended in its 2009 Business Plan, causing difficulties during transitions and the unnecessary loss of valuable institutional knowledge.

**F3.2** As of March 10, 2015 MUD had 27 vacancies. Staff shortages contributed to delays in progress of capital improvement projects, caused more than \$1 million in annual overtime costs in 2014, and threaten the operation of critical facilities if qualified technical positions are not filled.

**F3.3** The independent, full-time position of Safety Program Manager has been vacant since May 2013 and the decision to fill the position on an interim basis with the Deputy Director of Wastewater caused some employees to perceive it to be a conflict of interest.

**F3.4** Complaints regarding safety concerns have often been filed directly to Cal/OSHA by MUD employees intimating a lack of trust in management personnel to solve issues.

## Recommendations

**R3.1** The City Council direct (*through the City Manager*) the Director of MUD to develop and implement a succession plan by September 2015.

**R3.2** The City Council direct the City Manager to conduct a salary and compensation comparison study of municipal utility technical positions and prioritize the hiring of these essential positions by December 2015.

[*Note: MUD employees are paid through Enterprise Funds, which will not affect the City's General Fund.*]

**R3.3** The City Council direct (*through the City Manager*) the Director of MUD to formulate the job description and organizational development for the position of MUD Safety Program Manager and initiate the hiring process by September 2015.

**R3.4** The City Council direct (*through the City Manager*) the Director of MUD to assign and meet benchmarks for the safety programs being developed by NES, Inc. and by December 2015 prepare a timeline for completion of the safety project and report to the Council annually on its progress.

## Conclusion

The Grand Jury's investigation found validity in many issues cited in the complaint it received regarding MUD. Continued deterioration of infrastructure (e.g. concrete sewer pipes) due to H<sub>2</sub>S corrosion is indisputable and delay in treatment for more than two years did not improve the situation. Persistent staff turnover and vacancies cause challenges for MUD, delay progress, and create a stressful work environment. The loss of institutional knowledge from the exodus of former senior staff is incalculable.

During its investigation the Grand Jury also became concerned about what appeared to be a lack of communication in MUD, both vertically – from top-to-bottom and from bottom-to-top within the department's three divisions – and horizontally, across divisions. Safety violations have occurred, however, new management appears to be making necessary changes to correct deficiencies by utilization of a professional services contract to expedite development of MUD's safety and training programs. New management has also implemented production standards and productivity has improved. An emphasis has been placed on providing training opportunities for MUD employees. This investment will be lost if MUD continues to lose skilled technical staff to other municipalities and water agencies offering significantly higher compensation.

Services provided by MUD are essential. It cannot function optimally without being fully staffed with skilled, experienced employees. Specialists such as engineers, electricians, mechanics, and plant operators are in high demand. In order for MUD to recruit and retain qualified, skilled technical personnel it must regain a competitive hiring position. Planning is now underway for a \$150 million wastewater treatment plant upgrade that is necessary due to the facility's age and to improve the treatment process in order to ensure compliance with deadlines under the National Pollution Discharge Elimination System Permit. In accordance with the California Sportfishing Protection Alliance Consent Decree, MUD needs to complete the CCTV requirement of the entire sanitary system by December 31,

2015. MUD will then need to analyze all the data collected, prioritize, and organize it into a Capital Improvement Program. California is entering into a fourth year of drought, making water more precious each day. Paying more than \$1 million a year in overtime and more than \$1 million a year in Stockton East Water District pumping tax, due to a lack of qualified MUD personnel, is not a long term solution and is ultimately counterproductive for the workforce, as well as the groundwater.

Water, wastewater, and stormwater services are invaluable, yet typically taken for granted by users. Though much of its underground infrastructure is “out of sight, out of mind”, its function is crucial to the citizenry and inattention can result in perilous consequences.

## **Disclaimers**

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).

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The Stockton City Council shall respond to each Finding and Recommendation contained in this Report.

Mail or hand deliver a hard copy of the response to:

Honorable Lesley D. Holland, Presiding Judge  
San Joaquin County Superior Court  
P.O. Box 201022  
Stockton, CA 95201

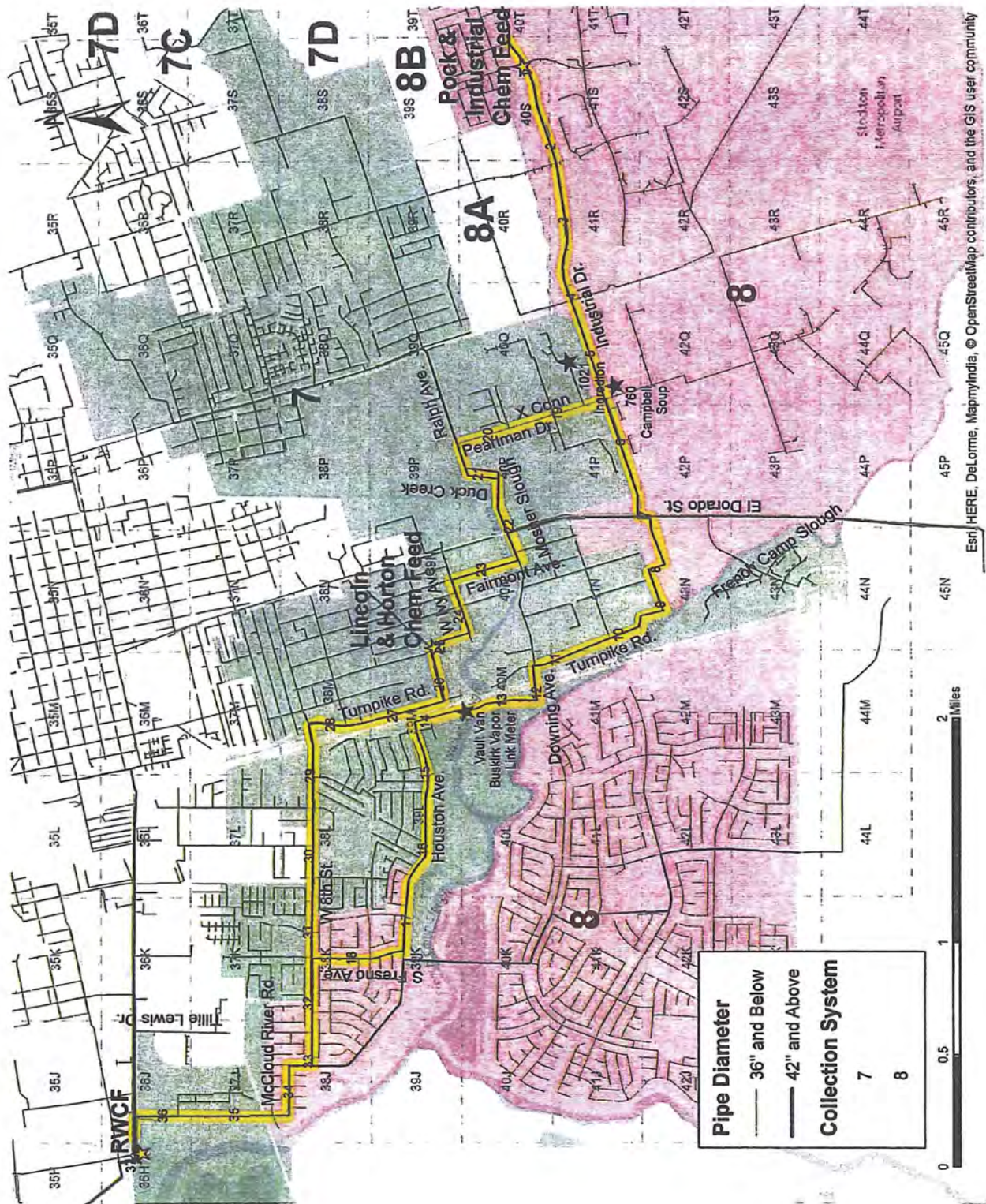
Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## **Appendices**

Appendix A: *Map of Southern Industrial Collection Systems 7 & 8*

Appendix B: *Delta Water Supply Project Intake Pump Station; elevation changes on non-pile supported areas of the levee.*

Appendix C: *Effects of H<sub>2</sub>S corrosion on utility vault at Van Buskirk Park.*



ppendix A: Map of Southern Industrial Collection Systems 7 & 8

**Appendix B:** Delta Water Supply Project Intake Pump Station; elevation changes on non-pile supported areas of the levee.



The Intake Pump Station (IPS) on the San Joaquin River west of Interstate 5.



A concrete slab has shifted due to soil settling at the IPS.



Buckled asphalt at the Intake Pump Station caused by settling ground.Ú

Appendix C: Effects of H<sub>2</sub>S corrosion on utility vault at Van Buskirk Park.



Photos above and at the right are close-ups of corrosion on the two-year-old utility vault doors in Van Buskirk Park.



A corroded utility vault in Van Buskirk Park



# **San Joaquin County Grand Jury**



## **CITY OF STOCKTON**

### **South Stockton Quality of Life**

#### **As the South Side Goes, So Goes Stockton**

#### **2014-2015 Case No. 1414**

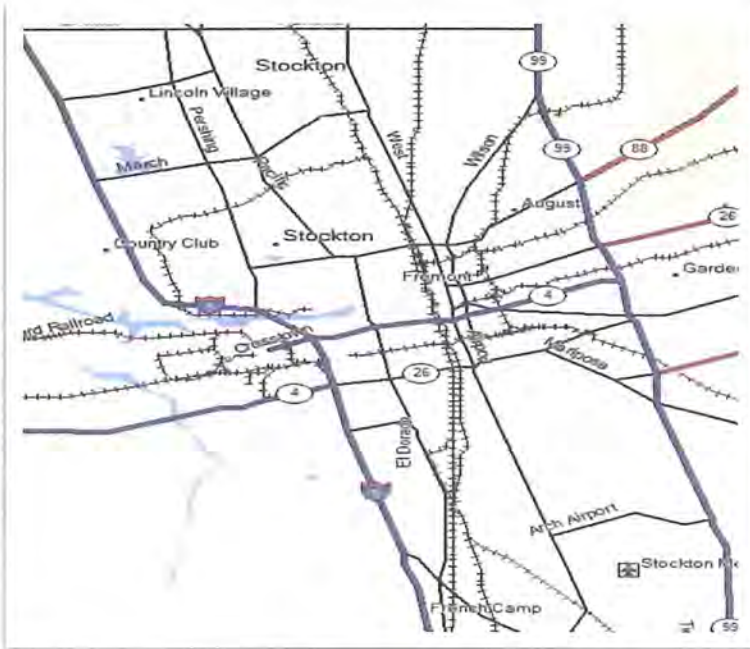
#### **Summary**

South Stockton, comprising an area generally south of the Crosstown freeway but excluding Weston Ranch, has an estimated population approaching 100,000 residents.

The Grand Jury initiated an investigation of that area prompted by a guided tour and the review of a series of newspaper articles highlighting the issues and the effects of long term neglect of the area. South Stockton suffers from extensive blight, poverty, deteriorating housing, slumlord residential ownership, and vacant lots, a lack of neighborhood services, and widespread drug dealing and crime.

Among the findings of the Grand Jury are:

- South Stockton, for many years, has been neglected and underserved by the City People outside and inside South Stockton perceive the area being an unsafe place to do business, shop or live



**South Stockton is generally south of the Crosstown freeway (Hwy. 4), but excluding Weston Ranch.**

- Code enforcement is inadequately staffed to deal with the problems of South Stockton, enforcement is reactive rather than proactive

Among the recommendations of the Grand Jury are:

- City resources should be equitably distributed based on the needs of each City Council district
- The City, in its present and future budgets, should provide the necessary resources to increase the staff of both Code Enforcement and Stockton Police Department (SPD) necessary to adequately address the longstanding neglect affecting South Stockton

## Glossary

|                            |                                                                                                                               |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| <b>Blitz program</b>       | A targeted, geographically-limited effort of social, blight, and anti-crime programs                                          |
| <b>CEO</b>                 | Code Enforcement Office                                                                                                       |
| <b>City</b>                | City of Stockton                                                                                                              |
| <b>City Attorney</b>       | The appointed attorney representing the City Council and the City                                                             |
| <b>City Council</b>        | Unless specified, includes the six elected council members and the mayor                                                      |
| <b>City Manager</b>        | Chief executive officer hired by the City Council to administer day-to-day City operations                                    |
| <b>Marshall Plan</b>       | A comprehensive, citywide effort involving both public agencies and private groups to reduce crime and increase public safety |
| <b>Operation Ceasefire</b> | A problem-oriented police initiative specifically aimed at youth gun violence                                                 |

|                       |                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Slumlords</b>      | Landlords who attempt to maximize profits by minimizing spending on maintenance of rented property, typically in deteriorating neighborhoods |
| <b>South Stockton</b> | An urban area generally south of the Crosstown freeway between Interstate 5 and Highway 99                                                   |
| <b>SPD</b>            | Stockton Police Department                                                                                                                   |
| <b>STAND</b>          | Stocktonians Taking Action to Neutralize Drugs                                                                                               |

## **Background**

The 2014-2015 Grand Jury is aware of the overall responsibility of the City to oversee and implement programs and policies to protect, enhance, and rehabilitate the entire City.

Prior to commencing this investigation, the Grand Jury reviewed media reports related to South Stockton and participated in a guided tour of the area.

Jurors decided to limit their investigation to the quality of life in South Stockton, because the area is about one-third of the City's population, to determine the extent to which the City is adequately addressing issues in that part of the City. The Grand Jury elected to focus its investigation on Code Enforcement housing issues, the availability of neighborhood retail services, as well as the impact of drugs and crime on South Stockton and its residents.

## **Reason for Investigation**

The Grand Jury concluded that highlighting long-standing issues of neglect in the south part of the City would help start the process of correcting them, and make South Stockton a more viable and vibrant part of the City.

## **Method of Investigation**

### **Materials Reviewed**

- Riverside Livability Program documents
- Documents describing the activities of STAND
- A series of articles appearing in The Record describing quality-of-life issues in South Stockton
- Selective City ordinances
- Photos of graffiti on City-owned property in South Stockton
- Statistical code enforcement data from the City

- Census Bureau demographic information
- California Department of Finance and the California Employment Development Department data

### **Interviews Conducted**

- Members of the City Council
- Member of the office of the City Attorney
- The City Manager
- Representative of STAND
- Reporter responsible for the newspaper articles
- Representative of the CEO

### **Some South Stockton Sites Visited/Observed**

- Gospel Center Rescue Mission
- A home recently renovated by STAND
- Stockton Shelter for the Homeless
- Van Buskirk Park Golf Course
- Sierra Vista Homes Development
- Dilapidated houses
- St. Mary's Interfaith Community Services

## **Facts, Findings, and Recommendations**

### **1.0 Population, Demographics, and Economics**

South Stockton has an estimated population of 100,000, a number that represents about one-third of the City's population. The population of the area includes a larger percentage of African Americans and Hispanics than other parts of the City.

South Stockton has a significantly higher percentage of residents living below the poverty level than the rest of the City and the State of California. In the 95202 ZIP code, for example, more than 45 percent of the population lived below the poverty line. In 2012, the most current Census Bureau data available, residents of City Council Districts 5 and 6, covering South Stockton, had the lowest per capita incomes in the City, \$13,785 and \$14,656 respectively. By comparison, the per capita income in District 1, covering the northernmost part of the City, was \$25,530.

Unemployment in the 95202 ZIP code was more than 30 percent in 2011, compared to a statewide average that year of roughly 12 percent and an annual rate of 16.8 percent for San Joaquin County. More than 30 percent of South Stockton residents over the age of 25 lack a high school diploma.

## **Findings**

**F1.1** While there are pockets of poverty throughout Stockton, much of it is concentrated in South Stockton where incomes and educational attainment are low.

**F1.2** Compared to the rest of the City, South Stockton has few major retail outlets, including major grocery outlets, and only in recent months did a financial institution announce plans to locate a branch in South Stockton.

**F1.3** People outside and inside South Stockton perceive the area as being an unsafe place to do business, shop, or live.

## **2.0 Housing and Code Enforcement**

About 30 percent of South Stockton residents are homeowners, roughly half the rate for the City as a whole, according to Census Bureau data. Citywide, homeownership is highest among whites, roughly 68 percent, and lowest among African Americans and Hispanics, about 42 percent. More than 60 percent of the South Stockton housing units are rentals.

The Code Enforcement Office (CEO) is responsible for enforcing the City's building codes and abating blight and graffiti. There are fewer than 10 CEO staff members to cover the City. Due to the low number of CEO staff, Code Enforcement staff is limited to responding to complaints and are not able to proactively initiate their independent investigations. There are no plans by the City Manager to add code enforcement staff during the next two budget years. CEO efforts are largely reactive, meaning enforcement officers respond to complaints rather than proactively addressing problems.

There are efforts to abate blight by several groups, including STAND, a non-profit organization, working with the SPD and CEO to eradicate blight, slumlords, and to reduce crime and drugs, buying homes, and rehabilitating them for occupancy by low income families.

## **Findings**

**F2.1** South Stockton has some of the lowest levels of homeownership in the City. This creates a more transient population and one with less "buy-in" to the community.

**F2.2** Code enforcement is inadequately staffed to deal with the problems of South Stockton. Enforcement and abatement efforts are reactive rather than proactive.

**F2.3** In many cases, South Stockton residents do not report blight, graffiti, and building code violations because they do not believe the City will help, and/or they fear reprisals from their landlord.

**F2.4** The City is not aggressively taking proactive steps to remove slumlords from South Stockton.

**F2.5** STAND is making contributions to address housing, drug activity, crime, and quality-of-life issues in South Stockton.

## **Recommendation**

**R2.1** By December 31, 2015, the City resources be allocated on an equitable distribution based on the needs of each City Council district, and the City in its present and future budgets provide the necessary resources to increase the CEO and SPD staff necessary to adequately address the longstanding neglect affecting South Stockton.

## **3.0 Crime**

No area of Stockton is without crime problems. In 2012, based on data provided by the City and media reports, the City had a violent crime rate of 782.8 per 100,000 residents, compared to a statewide rate of 332.6 and a nationwide rate of 223.2. Including property crimes, Stockton's overall crime rate is the highest in the county. Compared to Riverside, a city with a similar population and density, Stockton had a violent crime rate that was more than double. Stockton homicides peaked at 71 in 2012, giving the City a homicide rate of 23.7 per 100,000 residents compared to a national rate of about five. The SPD oversees anti-crime efforts throughout the City. After the City's economic collapse in 2008, SPD lost more than 100 experienced officers. The trend seems to have abated somewhat, however, layoffs, resignations, and retirements, as well as the difficulties of finding qualified personnel, have reduced the police force significantly in recent years. The SPD is rebuilding, but it will take time. Street gangs are among the major problems faced by the SPD. At least 45 gangs are known to be active in Stockton. Although gang activity can be found citywide, much of it is concentrated in South Stockton.

Efforts are being made to address crime with programs such as the Marshall Plan, Operation Ceasefire, and the Blitz program. The Blitz program strategically utilizes City resources within secured neighborhoods for a 90-day period, using code enforcement, SPD, and other City departments aimed to reclaim neighborhoods by addressing blight, crime, and drug activity. However, no area of South Stockton presently has been designated as part of the Blitz program. STAND is working in cooperation with SPD to implement community policing, which is becoming the standard for the City. Community policing involves assigning officers to specific neighborhoods for extended periods.

## **Findings**

**F3.1** The activity of street gangs stems from and exacerbates poverty problems for South Stockton residents.

**F3.2** Crimes of violence, in recent years soared citywide as policing levels plummeted.

**F3.3** In recent months the City has begun to address the problems of crime, but it will take months, possibly years, of effort to rebuild the police force decimated by the City's bankruptcy.

## **Recommendations**

**R3.1** By December 31, 2015, the City Council shall begin quarterly public reporting of its results from the Operation Ceasefire and Marshall Plan programs, with emphasis on criminal activities that originate or concentrate in South Stockton.

**R3.2** By December 31, 2015, the City, working with community organizations, make sure South Stockton quality-of-life programs are given consideration for funding and manpower.

**R3.3** By September 30, 2015, while continuing with its newly established Blitz program, the City concentrate efforts on established – and transparent – criteria, and give consideration to the needs of South Stockton.

## **4.0 City Funding**

City resources to address issues such as blight and urban decay, according to witness testimony, are allocated throughout the City without a determination of need. A number of City officials and private groups expressed concern about this system. There seems to be interest in a more needs-based approach to budgeting.

## **Findings**

**F4.1** South Stockton has been neglected and underserved by City government for many years.

**F4.2** City officials, with some notable exceptions, continue to speak about the problems of South Stockton, but take little action.

## **Recommendations**

**R4.1** By September 30, 2015, the City should begin holding a series of public workshop/forums devoted to the needs of South Stockton – as guided by its residents – with the purpose of developing short- and long-term goals to correct the long neglected issues affecting South Stockton.

## **Conclusion**

The investigation by the Grand Jury demonstrates that South Stockton, an area of greater poverty and crime than most other areas of Stockton, has not been served well by City Hall in any sustained and meaningful way. City government cannot do it all. It will take herculean efforts by South Stockton civic, social, and religious leaders too, but City government should take the lead. Only the City has the resources, police power and platform for public communication to effect change. South Stockton deserves its share of the City assets. In fact, given years of neglect in this part of the City, where about

one-third of Stocktonians live, needs more than its share of City resources until the area awakens to become a vibrant and vital part of the City that all citizens want and South Stockton residents deserve.

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## **San Joaquin County Grand Jury**



### **Manteca Unified Board of Trustees: Board Behavior Creates Conflict**

**2014-2015 Case No. 1417**

#### **Summary**

After the November, 2014 election, Manteca Unified School District (MUSD) changed ... drastically. Long-time incumbents were replaced by two unknown candidates, Ashley Drain and Alexander Bronson. The election of Sam Fant two years earlier began a transition away from a Board of Trustees largely made up of long-time Manteca Unified residents. During the 2012 election Deborah Romero was voted into office and has since been elected President of the MUSD Board of Trustees (Board). The remaining three trustees have served MUSD as follows: Evelyn Moore for 17 years, Nancy Teicheira for 13, and Mike Seelye for 11.

The newer trustees and the long-time members clashed almost immediately, and as learned during this investigation, these conflicts had toxic effects on District operations. After receiving multiple complaints, the 2014-2015 San Joaquin County Civil Grand Jury began an investigation into MUSD Board behavior and its negative impact on the District.

Among the findings uncovered during the investigation:

- Behavior of some Board members created an atmosphere of fear among employees at many schools and at the District office
- Coercion by some trustees caused established Board policies and procedures, including safeguards, to be circumvented by some administrators

- Interference of some Board members with employees' duties, violated Board policies and Bylaws.
- Spending for legal services directly related to Board members' behavior skyrocketed
- At least two Board members exercised perceived power inappropriately although all trustees acknowledged that a single Board member has no individual power

Among the Grand Jury's recommendations:

- By September 30, 2015, a policy should be adopted by the MUSD Board of Trustees to accomplish the following: When a Board member or an administrator becomes aware of any improper behavior by any Board member, it will be immediately shared with the Superintendent and all Board members.
- By September 30, 2015, the MUSD Board should adopt a policy that calls for immediate action when a trustee violates Board by-laws. This would include public discussion at the next board meeting, and/or moving to censure the trustee found to be in violation.

## **Glossary**

### **Ralph M. Brown Act**

Also known as the Brown Act, state laws governing open and closed meetings for public bodies

### **GECAC**

Give Every Child a Chance, a private organization that provides tutoring and after-school programs at District sites

## **Background**

Manteca Unified School District serves more than 23,000 students and is the third largest public school district in San Joaquin County. It is located in the county's southeastern area and its students live in Manteca, Lathrop, Stockton, French Camp, and pockets of unincorporated county areas. MUSD currently has 20 elementary schools, five comprehensive high schools, three alternative education sites, one adult education program, and one program that includes career academies and independent study opportunities.

District trustees must reside in one of seven trustee areas. Until the passage in November 2014 of Measure I, trustees were elected at-large. Measure I changed that. Going forward, trustees will be elected from newly drawn trustee areas, in which candidates must reside.

Superintendent Jason Messer has led MUSD for seven years, promoted after holding several other Manteca Unified central administrative positions. A long-time educator, he is invested in the District and would like to remain there for the remainder of his career. The chain of command in Manteca Unified is typical of many school districts. The superintendent reports to the Board; the deputy

superintendent and senior directors report to the Superintendent; and site principals report to senior directors.

For many years Manteca Unified was viewed as a district with stability as its hallmark. The community of Manteca strongly identified with its school system, and many long-time residents worked there. With the addition of expanding communities in the late 1980s in Lathrop and Stockton's Weston Ranch the small town feel of Manteca Unified began to change. Many Bay Area workers found commuting more desirable than unmanageable house payments, and they found more affordable home prices in Manteca, Lathrop, and Weston Ranch.

In 2010, the District suffered a severe decline in funding, tied to both the Great Recession and the collapse in the housing market, causing MUSD class sizes to increase. Despite these challenges, the District continued to graduate a high percentage of its students, 92.8 percent in 2013-14, the highest of any large school district in the county.

Board members occasionally had public disagreements, but the conflicts were resolved in a professional manner. This was, in part, because they shared a common belief: the trustees' role was to develop policies and assign financial resources to improve the learning of all students throughout the district. This long-time, non-controversial way of doing business began to change ... drastically.

In the November 2012 election Sam Fant, listed himself on the ballot as an educator. He won the election, receiving 50.9 percent of the vote. When elected, he was Stockton Planning Commission chairman and a member of the San Joaquin County Fair Board. A self-avowed politician, Sam Fant would soon demonstrate a different style of boardsmanship than his colleagues. Mr. Fant worked quietly, but forcefully, to get what he wanted. His proposals for change were largely focused on the Weston Ranch area of the District. Some of his ideas received a friendly reception from Board members. Others did not. After all, he was only one vote of seven. That, too, would change.

The two board members elected in November of 2014 also identified themselves as educators on the ballot. It is known throughout the Manteca Unified community that Mr. Fant has stated that he helped them with their campaigns. He later said that he did no more than endorse them. Trustees Drain and Bronson frequently voted as Mr. Fant did, which has enlarged his powerbase. While Mr. Fant operates in a relatively low-key manner, Ashley Drain, one of the two newly-elected trustees, does not. Her exchanges with District employees and community members have caused an outcry among the public, and a scurry by administrators to assist her in order to modify her behavior. Her pronouncements are particularly suitable fodder for the local press, and her frequent, outspoken posts on social media are thought by many to be unseemly for an elected official.

It is in this chaotic atmosphere that the 2014-2015 Grand Jury began its investigation. Jurors found countless instances of unusual Board behavior, some of which are outlined below.

## **Reasons for Investigation**

The Grand Jury received multiple complaints relating to the actions of MUSD Board members. One complainant alleged the possibility of election fraud and perjury by two Board members when stating their residency on papers filed for the 2014 election. Another complaint described an incident when one Board member allegedly interfered with the discipline of a student at Weston Ranch High School (WRHS). The third complaint was lodged against a board member when pictures from an employee's Facebook account were displayed at the January 27, 2015 Board meeting.

The Grand Jury discovered that a complaint had been filed with the California Secretary of State's Office regarding the election issues. That being the appropriate venue for the complaint, the Grand Jury chose not to pursue that issue. Subsequently, the Secretary of State's Office did investigate the complaint and referred the matter to the San Joaquin County District Attorney's Office. Multiple felony charges were filed against the two trustees, Alexander Bronson and Ashley Drain, on April 23, 2015. Mr. Bronson resigned from the Board of Trustee position on May 11, 2015.

Initial interviews began in March 2015 and revealed there were major problems plaguing MUSD, largely as a result of the behavior of Board members, and particularly increasing since the November 2014 election. Numerous local media reports indicated that recent actions taken by some Board members had riled many constituents, especially in the Weston Ranch community. Subsequent interviews made it clear that numerous District employees were fearful of some trustees. Board meetings had become contentious. Administrators were compelled to spend inordinate amounts of time dealing with Board members' demands, especially demands coming from Ms. Drain and Mr. Fant. These two Board members knew that a single board member has no more power than any citizen, however, they used perceived power to inappropriately achieve their ends.

The combination of formal complaints, frequent negative media reports, and early Grand Jury interviews revealed disturbing problems, prompting this investigation.

## **Method of Investigation**

### **Materials Reviewed**

- Various newspaper articles from the *Manteca Bulletin* and *The Record*
- California Education Code
- California Penal Code
- MUSD By-laws
- MUSD agendas and minutes
- Various documents, internal emails, and financial records obtained under the Freedom of Information Act (FOIA)
- Contract with James French
- Invoices from James French
- Sign-in sheets from various schools
- California Department of Education data
- San Joaquin County Registrar of Voters' documents

- Various pages on the California School Board Association web site
- Security videos taken at Weston Ranch High School (WRHS)

### **Interviews Conducted (25)**

- All MUSD Board members
- Seven District and site administrators
- Several classified employees
- Several community members
- GECAC staff members

### **Sites Visited**

- Manteca Unified District Office
- August Knodt Elementary School
- Weston Ranch High School
- Attended Board meetings

## **Facts, Findings, and Recommendations**

### **Discussion**

#### **1.0 Fact**

The Grand Jury investigation found many instances of inappropriate trustee behavior, including:

#### **A. Exercise class established contrary to normal procedures**

In recent years some Board Members have by-passed the accepted chain of command, communicating directly with personnel in the District office and at various school sites. This was done for a variety of subjective reasons: to strengthen an effort to remove an administrator, to inappropriately intervene in disciplinary actions of administrators, or to push for a favorite program.

The normal process for a trustee to advocate a program for MUSD begins with a conversation between the trustee and the superintendent. The superintendent or a designated administrator investigates the request and determines the appropriateness and the feasibility. Would this initiative benefit students? Would it be safe? Would it create liabilities for the District? Would the benefits justify the costs? These were among the questions that needed to be answered. When done properly this process would take much longer to come before the District trustees for action.

Trustee Fant has pushed for programs in his area that includes most of the Weston Ranch. One of the programs Mr. Fant insisted on was an adult exercise program at August Knodt Elementary School. A significant number of adults exercised regularly at the public park next to the school, and Mr. Fant, for

unknown reasons, wanted them to use the school for their “Zumba-like” workouts. In the winter 2013, he broached the subject with various administrators. Concerns were raised about having unknown adults on campus, fingerprinting issues, and participant and student safety. These exercises were quite energetic, and injuries could occur. To solve some of these issues the activity was to be “programized.” This meant that the District would place it in a category that made it a District program, and any liability would be assumed by MUSD. One issue that could not be resolved was fingerprinting. At the time, no participant was willing to complete the background process. This delayed the program start-up for about one year. The reason this background process is in place is to vet the issues before implementation to insure the program’s success.

The Grand Jury reviewed a series of emails about the formation of the program as a result of the Freedom of Information Act demands. The emails were compiled by the District’s Information Technology Department after it received requests for information found on the District server related to a variety of issues. After the Grand Jury analyzed these documents, it became clear that the normal process for creating a new program was not followed. Sam Fant, according to emails, made it clear to many people that this program was his. Rather than dealing only with Superintendent Messer, he made demands of many employees either in person, via email, or over the phone. One email was particularly direct:

*I have been contacted by multiple people that, the community program that I have been working hard on is being sabotaged by staff in our district ... If there is any scare tactics or facts that are blown out of proportion in order to see to it that this program fails, it will be EXTREMELY DISAPPOINTING! And I am going to want the Facts on why things miraculously fell apart.*

Mr. Fant was known to tell administrators on many occasions that their job was to do what he told them. The Grand Jury found that he would repeatedly say to staff, “This is what I want. Your job is to figure out how to make it happen”, even after concerns about safety, cost, and liability were discussed with him. When the issue of possible injury in the August Knodt exercise program was raised, he said that the District will make this a Manteca Unified program, so that there will be no facilities use requirements and no need for insurance. “Manteca Unified has deep pockets, let us get sued,” he said according to emails examined by the Grand Jury.

In February 2015, the Fitness, Aerobic, Nutrition, Training (F.A.N.T.) program began at August Knodt Elementary School, operating Monday through Friday, 9 to 10 a.m. As a safeguard, no adults in the program were to have contact with students, as only a few leaders had been fingerprinted. An analysis of attendees revealed that about 20 percent of the participants were not August Knodt parents. They were to only be in the cafeteria, and not enter the campus. During a Grand Jury visit to August Knodt, adults were seen entering the campus through the cafeteria doors where they could come into contact with students.

The Grand Jury did not attempt to determine whether the F.A.N.T. program was effective. Jurors recognize there is a benefit for adults to embrace a healthy lifestyle. This episode, however, is one of many examples of normal processes being by-passed as a result of individual trustee coercion. The examination of the emails show excessive amount of time consumed by many employees in order to satisfy Mr. Fant, much of it spent smoothing over misunderstandings and making sure that Mr. Fant did

not get upset. The examination of emails also showed that administrators bowed to the pressures brought on by Mr. Fant resulting in established procedures to be ignored. The fact that the trustee dealt directly with so many employees working at a variety of levels was highly unusual in the experience of many in MUSD. It also was disruptive.

## **B. Trustee assumes control of a District program**

Weston Ranch, an isolated area in the City of Stockton served by MUSD, has few after-school activities. In the spring of 2014, a program was piloted at Weston Ranch High School, an idea originating with Trustee Fant, and supported by most of the other trustees. A pilot after-school program, serving 50 or 60 students began. It was operated by the award-winning Give Every Child a Chance organization (GECAC), which began in Manteca in 1998. GECAC currently serves more than 4,000 children at almost 50 sites in many school districts in the Central Valley.

(<http://www.gecac.net/historicallimeline.html>).

Ashley Drain, not a trustee at the time, worked for GECAC in the WRHS after-school program until April 2014. At that time, according to a series of emails, she became defiant with a supervisor, telling him that the after-school program was not Principal Jose Fregoso's program, and it was not GECAC's program; it was Sam Fant's program, and she would take orders from him. The Grand Jury found when the GECAC Chief Executive Officer (CEO) called Ms. Drain to discuss her exchange with her supervisor, Ms. Drain hung up on her and called Mr. Fant. After a series of conversations and meetings, Ms. Drain was dismissed by the CEO.

The GECAC program CEO and its employees expressed concerns about the behavior of Mr. Fant, particularly the way he interacted with Principal Fregoso. He was heard giving orders to Mr. Fregoso and using many profanities in the process.

Ultimately, the pilot program at WRHS was successful, and the Board directed Superintendent Messer to find \$125,000 to expand it. In the fall of 2014 a full-fledged, GECAC after-school program began at the high school. While the program was successful, GECAC officials decided not to continue at WRHS effective with the 2015-16 school year, mainly because of their interactions with Mr. Fant. They will continue to operate after-school programs at the elementary schools in Weston Ranch.

## **C. WRHS principal ousted**

The Grand Jury found that Trustee Fant spent many hours at Weston Ranch High School. Usually he did not check in at the office, as is normal practice, and often pulled teachers out of their classrooms during instruction time to discuss Principal Jose Fregoso's performance. Beginning in December 2014, Mr. Fant was often seen at WRHS accompanied by Ms. Drain, the newly-elected trustee.

A January 30, 2015 Manteca Bulletin story, "Two trustees trying to remove administrator?", described a vote taken in closed session during the January 27th Board meeting. The administrator being considered for possible dismissal as stated on the closed session agenda was known to be Mr. Fregoso. As reported,

Mr. Fant moved for the dismissal. Only one other trustee, Ms. Drain, joined in favor. The motion did not pass.

Many community members expressed support for Mr. Fregoso at a subsequent Board meeting and through newspaper letters to the editor. Over the next few weeks, negotiations occurred between the District and Mr. Fregoso. At the March 3, 2015 Board meeting it was announced that Mr. Fregoso would be leaving the District at the end of the school year. Mr. Fregoso accepted an offer of a full year's salary with benefits, costing the District about \$150,000. Were it not for the efforts of Trustees Fant and Drain, Mr. Fregoso would have remained at WRHS. The Grand Jury also learned that a climate of fear among many District employees was created because of the way Mr. Fregoso was ousted.

#### **D. Trustee interferes with discipline**

A highly publicized incident at WRHS occurred a few days after Ms. Drain's election. She intervened in a disciplinary matter involving a student who happened to be in her emotional development after-school activity conducted privately in her home. The student relayed her version of the incident, and Trustee Drain drove her to the high school where, according to her statement to the Manteca Bulletin, she expressed her "... severe disdain for the poor choices this school is making on behalf of our students." In the same article she was described as accusing Principal Fregoso of being apathetic to the plight of the school's minority students. "Weston Ranch does not have a supportive staff or a supportive principal", she was quoted as saying. Although Ms. Drain was not the parent or guardian of the student, she sent the student to class, refusing to let the vice-principal follow appropriate discipline procedures. In reference to the news article about this incident, Ms. Drain stated on her Facebook page, "I don't play by the rules that are counterproductive to the Well Being of my students ... As long as it isn't illegal ... by ANY means necessary." This incident was one of at least two in which Trustee Drain interfered with student discipline at Weston Ranch High School.

The second of these incidents occurred on January 20, 2015. A campus monitor was restraining a male student who was trying to fight with a female student. Ms. Drain was on the campus with James French. Mr. French began yelling at the campus monitor to stop. As Mr. French had no visitor's badge, he was asked by the principal to identify himself. He replied that he was with Ashley Drain. When asked if he had checked into the office before entering, he said he had. The accepted practice is for all visitors to sign-in at the office and receive a badge. This security measure is necessary to make sure administrators know who is on their site. It was discovered that Mr. French had not checked in at the office. When the principal checked into the vice-principal's office where the male student had been sent, he found the student in the office talking with Ms. Drain. She was asked to leave the office. She did not have the required parental permission to speak with the student.

#### **E. Consultant hired without background check**

This would not be the last time that Mr. French would be at WRHS. He was a friend of Trustee Drain, having officiated at her marriage four years earlier. At the request of Ms. Drain, Mr. French was awarded a \$6,000 Standard Vendor Contract, an agreement to work with students who are at-risk of coming under the influence of gangs. Mr. French has publicly stated that he is a former gang member,

and he served 23 years in state prison for gang-affiliated armed robbery, a felony. He could not pass the legally-required background check for all adults who work with students. For this reason the contract with MUSD required him to check in at the office and be accompanied by a certificated employee at all times while on campus. It could not be verified that he followed these requirements on every visit to the campus. The Grand Jury learned that there were times that he was seen on the WRHS campus unaccompanied and without a visitor badge.

The process for bringing Mr. French to the campus was also outside of normal procedures. At no time was the principal involved or even informed about the consultant until his encounter with Mr. French and Ms. Drain on the WRHS campus. According to the invoices submitted to the District, Mr. French had been on campus before January 20, 2015, however Principal Fregoso was not aware of it at that time.

As in other aspects of this investigation, the Grand Jury did not focus on the value of Mr. French's services. Jurors realize that some value may be had from persons sharing difficult life experiences with students.

The contract for Mr. French was approved by the Board on February 10, 2015, and was funded from a general fund account. OG Consulting, Mr. French's organization, was to be paid \$300 per hour for student assemblies, \$175 per hour for work with small groups, and \$250 per hour for staff development, not to exceed \$6,000. As of May 20, 2015, Mr. French had billed the District \$6,000 and been paid \$4,550. The District was able to provide five parental permission slips allowing Mr. French to work with individual students. In addition to the few students Mr. French counseled, he worked with a few parents and consulted with a few staff members.

During the Board discussion regarding the approval of the contract for Mr. French's services, Trustee Nancy Teicheira expressed concerns. She asked if the District's attorney had reviewed the contract and inquired about liability. According to Board minutes, Superintendent Messer said that "Risk Management has reviewed the contract, and has the ability to waive the fingerprinting, because he is employed at UOP. Mr. Messer clarified the liability piece comes under the classification of guest instructor and that a certificated staff member will be with him at all times." The Board agreed to table public discussion and take it up in closed session. After the 19-minute closed meeting, the Board unanimously approved the contract in open session.

The Grand Jury was not able to verify Mr. French's employment with the University of the Pacific and learned later the District also could not verify his employment at UOP. Additionally, it was learned that Mr. French does not always check in at the WRHS office and is not always accompanied by a certificated staff member.

#### **F. Trustee gives principal candidate after-hours tour at Weston Ranch High School**

On Monday, April 13, 2015, an off-duty campus security monitor opened the door to WRHS at about 5 p.m. Entering along with the campus monitor was Trustee Fant and an unidentified (at the time) woman. They were taken to offices, the teacher's lounge, the library, and a special education classroom among other locations. Later it was learned that the woman was considering whether to apply for the

principal position at WRHS, later applying for the job and becoming one of three finalists. Mr. Fant did not share this activity with site administrators, other Board members, or the Superintendent.

It is not unusual for applicants for such positions to tour school sites, sometimes after hours. Such tours are conducted by District or site administrators. It is inappropriate for trustees -- who will make the ultimate hiring decision -- to conduct such tours.

The normal process for hiring principals in MUSD includes a first round interview with eight persons representing administration, teachers, classified employees, parents, students, and others. The three finalists are then interviewed by the Superintendent and three District trustees, selected by the Board president. After learning about the special treatment given the candidate by Mr. Fant, the process was changed. After the first round, which was completed before the changes were made, three finalists were interviewed by the Superintendent, and he put his selection in a sealed envelope. At a special Board meeting on May 11, 2015, six trustees interviewed the candidates (earlier in the day Trustee Bronson had tendered his resignation and did not attend). The woman given the tour by Mr. Fant and the campus monitor was selected as the new WRHS principal on a 5-1 vote. It should be noted that Trustee Fant had made it known to numerous persons that he would select the new principal at WRHS, and the principal would be African-American.

An additional issue with this after-hours visit was the concern about the entering of offices and classrooms by a Board member and a stranger, especially a room used for special education where sensitive confidential student files are stored. It was learned that some locks were changed after this episode, and that many staff members were angered at what they considered an invasion of privacy. Normally any visitor would be accompanied by an administrator.

#### **G. Investigation into employee complaint filed against trustee**

An employee who works in a school office filed a formal complaint against Trustee Fant claiming that he had created a hostile workplace. Some of the employee's personal Facebook pages were distributed and displayed at the January 27th Board meeting. After determining that the Facebook entries had not been uploaded with District property, the District enlisted an attorney to investigate the employee's complaint. The attorney found that a hostile workplace was not created in the legal sense, because the conduct was not due to the employee being in a protected legal category. The attorney presented a summary of findings as follows:

- A. Sam Fant showed pictures from [REDACTED] Facebook page to Dennis Wyatt of the Manteca Bulletin in advance of the Board meeting on January 27, 2015.*
- B. Sam Fant was aware that a television reporter was going to attend the January 27, 2015 Board meeting and so informed Dennis Wyatt of the Manteca Bulletin in advance of the Board meeting.*
- C. Sam Fant left the Board meeting for an interval of time on January 27, 2015, when the Board meeting was ongoing in order to give an interview to Fox 40 news.*

On Thursday, May 14, 2015, a special Board meeting was held. On the previous Tuesday the regularly scheduled meeting could not be completed due to technical difficulties related to the posting of the agenda. Two action items on the agenda were related to the investigation and the actions of Sam Fant:

1. *Consider and Discuss Resolution Employee Facebook Complaint Against Board Member*
2. *Consider Appointment of Board Committee to Review and Discuss a Censure Resolution Regarding Employee Facebook Complaint*

The attorney who conducted the investigation discussed the findings. After a lengthy and acrimonious discussion, the Board voted to appoint a committee to investigate the beginning of the process to censure Sam Fant. Mr. Fant and Ms. Drain voted against the motion. The remaining four trustees voted for it. President Romero appointed Ms. Drain, Ms. Teicheira, and herself to the committee.

#### **H. Junior Cougars banquet was scheduled, canceled and held anyway**

The Weston Ranch Junior Cougars are a non-District football team for young children. Sam Fant is the current vice-president of its Board of Directors. On December 1, 2014, he came to the District Facilities Use Clerk and requested the use of facilities at Weston Ranch High School for a football banquet on Saturday, December 6, 2014. The normal lead time for approval is four weeks. Four days later Mr. Fant came to the clerk and cancelled the event. He said that they couldn't pull off the event fast enough. The clerk informed the site.

Normally a custodian unlocks the facility for such events. However, on the date originally scheduled for the event, the Grand Jury learned that, a campus security monitor opened the facility, and the banquet was held. The Junior Cougars' costs for the banquet (custodial, etc.) were reduced, because the proper forms were not fully filled out, verifying the custodian's time.

This incident raised another important issue: The address of the high school was listed on the application form as the Cougars' address. This, too, is unusual and problematic. Insurance follows the address. If there had been an accident, the District could have been held liable, even though the Cougars have insurance and an official address.

MUSD has since changed its procedures. In the future every facility user will need to have a printed permit, and the custodian will need to see that permit before allowing the user access to facilities. Also, rather than letting facilities users pay in arrears, they must pay one week in advance. If they haven't, they won't be allowed to use facilities eliminating the problems with insufficient funds checks that have occurred in the past.

#### **I. Trustees presence interferes with administrators' work**

Trustees spend an extraordinary amount of time in administrators' offices. They often arrive unannounced, and sometimes engage in conversations that at times seem of little importance to District operations. Many administrators find it difficult to complete their work, because some trustees

sometimes spend hours in their offices. During these visits necessary interaction with staff is impossible. This meant some administrators spend most of their weekends catching up.

#### **J. Trustee insults Weston Ranch school staff**

After Trustee Drain learned that she was to be charged with voter and welfare fraud, she went straight to Facebook and blasted the District. She particularly angered the Weston Ranch community when she called WRHS a “ghetto school”, and she stated that Weston Ranch schools are “dumping grounds for poor teachers”. Manteca teachers, already frustrated with contract negotiations, came to the May 12th Board meeting wearing t-shirts emblazoned with the words “I Have a Voice/The Ranch by Choice”. Other Facebook exchanges by Ms. Drain have created controversy spilling over into Board meetings and the press. Two days after learning about the felony charges against her, Ms. Drain ceased posting updates to Facebook.

On May 12, 2015, Trustee Drain was served with a petition to recall her from her position as a trustee. At the same Board meeting it was announced that Trustee Alexander Bronson had submitted his resignation.

#### **Findings**

**F1.1** Coercion by some trustees caused established Board policies and procedures, including safeguards, to be circumvented by some administrators

**F1.2** Public statements by some trustees have caused anger and disruption in MUSD

**F1.3** Some Board members interfered with employees’ duties, violating Board policies and by-laws

**F1.4** Behavior by some Board members has made employees fearful in the workplace

**F1.5** Administrators have been spending inordinate amounts of time dealing with issues involving trustees, making it difficult for them to complete necessary District work

#### **Recommendations**

**R1.1** By September 30, 2015 a policy should be adopted by the MUSD Board of Trustees to accomplish the following: When a Board member or an administrator becomes aware of any improper behavior by any Board member, it will be immediately shared with the Superintendent and all Board members.

**R1.2** By September 30, 2015, the MUSD Board should adopt a policy that calls for immediate action when a trustee violates District by-laws. This would include public discussion at the earliest possible Board meeting, and/or moving to censure the trustee found to be in violation.

## 2.0 Fact

### Dramatically escalating legal costs

Spending for legal services increased dramatically as a result of the behaviors described above and other matters related to trustees. Some of the issues causing increased legal costs include several investigations, questions about residency, use of technology in meetings, by-laws changes, a study session regarding conflict of interest and appropriate governance, recall election processes, advice about appearing before the Grand Jury, negotiations with WRHS principal, and legal ramifications of alleged criminal misconduct.

During the 2012-2013 fiscal year the district spent just over \$2,000 for legal services relating to the Board of Trustees. Those costs have increased dramatically in recent months as the chart below illustrates, largely because of Board behavior issues. For the current fiscal year through March 31, 2015, the District has spent \$57,926.21 in legal fees related to Board behavior.



Because of the events leading to the departure of Principal Fregoso, it is not unreasonable to include the cost of buying-out the principal's contract with the unnecessary costs the District has incurred as a result of Board behavior. Salary and benefits for Mr. Fregoso cost taxpayers about \$150,000. This figure combined with the legal costs described above exceeds \$200,000. If the recall moves forward, the costs will increase even more.

### Findings

**F2.1** Costs for legal services related to Board members' behavior has increased during the first nine months of the current fiscal year nearly 30 times what it was two years earlier

**F2.2** The departure of the Weston Ranch High School principal added an unnecessary cost to the District

### **3.0 Fact**

#### **Board and staff training**

In December, soon after Trustees Drain and Bronson were elected, they were given an option to attend training held by the California School Board Association (CSBA) in San Francisco. Mr. Bronson was not able to attend due to conflicts with work. Ms. Drain was scheduled to go, but when she arrived to check in at her hotel, she found it unacceptable. She returned home, and did not attend the training. The hotel has since been removed from the CSBA list of conference hotels. Other, more senior board members have not attended training for some time.

On January 13, 2015, a Board study session was held with the District's attorneys. The subjects included the following: an ethics overview, role of the board, Brown Act basics, and transparency in government. Sub-topics explored the issues of the use of technology during meetings, agreement on district spokesperson, and the power of an individual board member.

At the February 10, 2015, Board meeting training was an agenda item. After discussion the District voted to sponsor each trustee's attendance at one eight-hour CSBA training session per year. Mr. Bronson suggested the training be mandatory. His proposal was not included in the motion.

The Grand Jury learned that no administrators have received orientation on interacting with Board members. As a result, numerous incidents occurred during the last few months that allowed policies and procedures to be circumvented because staff did not understand their responsibilities.

### **Findings**

**F3.1** Only a few trustees have attended school board training in recent years preventing some trustees from having a common understanding of their role and responsibilities

**F3.2** A lack of understanding by staff of the role of Board members has caused serious problems

### **Recommendations**

**R3.1** Newly elected Board members are strongly urged to participate in new board training offered by CSBA or other organizations

**R3.2** All Board members are strongly urged to participate in annual board training offered by CSBA or other organizations to keep them current with educational trends and changing legislation

**R3.3** Administrators should review Board by-laws and share with their staff those sections dealing with Board governance

#### **4.0 Fact**

##### **Board by-laws updates expedited because of Board behavior**

MUSD Board by-laws were scheduled to be updated over the next calendar year, however, it became necessary to place some by-laws on a fast track. The by-laws dealing with the Board of Trustees were placed ahead of other updates, because it was evident that some board members did not have a thorough understanding of them, and were not following them. Updates or additions of the following by-laws were placed on the February 10, 2015, agenda for adoption (See Appendix):

- 9000, Role of the Board
- 9005, Governance Standards, including:
  - *Act with dignity, and understand the implications of demeanor and behavior.*
  - *Keep confidential matters confidential.*
  - *Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent.*
  - *Understand that authority rests with the Board as a whole and not with individuals.*
- 9010, Public Statements, including:
  - *All public statements authorized to be made on behalf of the Board shall be made by the Board President, or if appropriate, by the Superintendent or other designated representative.*
- 9011, Disclosure of Confidential/Privileged Information
- 9012, Board Member Electronic Communication

By the March 3, 2015, Board meeting all of these new and revised by-laws were adopted.

#### **Finding**

**F4.1** Board by-laws Sections 9000, 9005, 9010, and 9011 were violated by the Board members as described in this report.

**F4.2** By-laws changes dealing with the Board were added or updated as a result of Board member behavior

## **Conclusion**

The Grand Jury found that inappropriate and disrespectful behavior by Board members has been the greatest challenge for Manteca Unified School District in many years. Disrespect for each other, for employees, and for community members has created a toxic climate. Additionally, administrators at all levels have been pressured to cut corners and ignore important policies and procedures, leading some to question their judgment. As a result, some employees are actively seeking work elsewhere.

In the past Manteca Unified School District has generally served its students successfully. However, that effort may be jeopardized by the exceedingly disturbing actions described in this report. These actions must stop. If they are not stopped, the District risks further undermining its credibility with the community it serves and also risks losing some of the people who have been responsible for the District's successes. Both would severely stymie District progress.

School boards have been in existence for centuries, and have a rich tradition of serving as upholders of the beliefs and values of the community they represent. Roles and responsibilities are part of that tradition. When school board members operate with respect for their appropriate roles and responsibilities, education can be strong, and great things can happen, especially for students. When Board members and administrators ignore agreed upon rules and policies, it can be as damaging as breaking the law. If trustees behave inappropriately with no regard or respect for established norms, the educational system can be seriously damaged, harming taxpayers, employees and, most importantly, students.

## **Disclaimers**

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).

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The Board of Trustees of the Manteca Unified School District shall respond to each Finding and Recommendation contained in this report.

Mail or hand-deliver a hard copy of the response to:

Honorable Lesley Holland, Presiding Judge  
San Joaquin County Superior Court  
P.O. Box 201022  
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## **Appendices**

1. MUSD By-law 9000 b “Role of the Board”
2. MUSD By-law 9005 “Governance Standards”
3. MUSD By-law 9010 “Public Statements”
4. MUSD By-law 9011 “Disclosure of Confidential/Privileged Information”
5. MUSD By-law 9012 a “Board Member Electronic Communications”
6. MUSD By-law 9210 “Qualifications”
7. MUSD By-law 9222 “Removal”

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**ROLE OF THE BOARD**

The Governing Board has been elected by the community to provide leadership and citizen oversight of the District. The Board shall ensure that the District is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

- 1) Setting the direction for the District through a process that involves the community parents/guardians, students, and staff and is focused on student learning and achievement.
- 2) Establishing an effective and efficient organizational structure for the District by:
  - a. Employing the Superintendent.
  - b. Overseeing the development and adoption of policies.
  - c. Establishing academic expectations and adopting the curriculum and instructional materials.
  - d. Establishing budget priorities and adopting the budget.
  - e. Providing safe, adequate facilities that support the District's instructional program.
  - f. Setting parameters for negotiations with employee organizations and ratifying collective bargaining agreements.
- 3) Providing support to the Superintendent and staff as they carry out the Board's direction by:
  - a. Establishing and adhering to standards of responsible governance.
  - b. Making decisions and providing resources that support district priorities and goals.
  - c. Upholding Board policies.
  - d. Being knowledgeable about District programs and efforts in order to serve as effective spokespersons.
- 4) Ensuring accountability to the public for the performance of the District's schools by:
  - a. Evaluating the Superintendent and setting policy.
  - b. Monitoring and evaluating the effectiveness of policies.
  - c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements.
  - d. Monitoring student achievement and program effectiveness and requiring program changes as necessary.
  - e. Monitoring and adjusting District finances.
  - f. Monitoring the collective bargaining process.
- 5) Providing community leadership and advocacy on behalf of students, the District's educational program, and public education in order to build support within the local community and at the state and national levels.

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law.

**LEGAL REFERENCE**Education Code

- 5304 Duties of governing board (re school district elections)
- 12500-12405 Authority to participate in federal programs
- 17565-17592 Board duties re property maintenance and control
- 33319.5 Implementation of authority of local agencies
- 35000 District name
- 35010 Control of district; prescription and enforcement of rules
- 35020-35046 Officers and agents
- 35100-35351 Governing boards, especially
- 35160-35185 Powers and duties
- 35291 Rules

**MANAGEMENT RESOURCES**CSBA Publications

Maximizing School Board Governance

Professional Governance Standards, November 2000

School Board Leadership: The Role and Function of California's School Boards, 1996

National School Boards Association Publications

The Key Work of School Boards, 2000

Websites

CSBA: <http://www.csba.org>

CSBA Governance Institute: <http://www.csba.org/gi>

National School Boards Association: <http://www.nsba.org>

Date Adopted: December 14, 2004

Date Revised:

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**GOVERNANCE STANDARDS**

The Manteca Unified School District Governing Board believes that it is primary responsibility is to act in the best of every student in the District. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the District. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall:

- 1) Keep learning and achievement for all students as the primary focus.
- 2) Value, support and advocate for public education.
- 3) Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community.
- 4) Act with dignity, and understand the implications of demeanor and behavior.
- 5) Keep confidential matters confidential.
- 6) Participate in professional development and commit the time and energy necessary to be an informed and effective leader.
- 7) Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff.
- 8) Ensure opportunities for the diverse range of views in the community to inform Board deliberations.

**LEGAL REFERENCE**Education Code

35010 Power of governing board to adopt rules for its own governance

35160 Board authority to act in any manner not conflicting with law

35164 Actions by majority vote

Government Code

1090 Financial interest in contract

1098 Disclosure of confidential information

1125-1129 Incompatible activities

54950-54963 The Ralph M. Brown Act

87300-87313 Conflict of interest code

Management Resources**CSBA PUBLICATIONS**

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

**WEB SITES**

CSBA: <http://www.csba.org>

Board Adopted:

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**PUBLIC STATEMENTS**

The Governing Board of the Manteca Unified School District recognizes the responsibility of Board members in their role as community leaders to participate in public disclosure on matters of civic or community interest, include those involving the District, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding District issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

All public statements authorized to be made on behalf of the Board shall be made by the Board President, or if appropriate, by the Superintendent or other designated representative.

When speaking for the District, the Board encourages its spokesperson to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

The Board and District spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board.

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behaviors for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

**LEGAL REFERENCE**Education Code

35010 Control of district; prescription and enforcement of rules

Government Code

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

**MANAGEMENT RESOURCES**Websites

CSBA: <http://www.csba.org>

Board Adopted:

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**DISCLOSURE OF CONFIDENTIAL/PRIVILEGED  
INFORMATION**

The Governing Board of Manteca Unified School District recognizes the importance of maintaining the confidentiality of information acquired as part of a Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

**Disclosure of Closed Session Information**

A Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the Board has authorized its disclosure.

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session.

The Board shall not take any action set forth in Government Code 549563(c) against any person for disclosing confidential information (as defined above) nor shall the disclosure be considered a violation of Government Code 54963 when the person is:

- 1) Making a confidential inquiry or complaint to the district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session.
- 2) Expressing an opinion concerning the propriety or legality of a Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.
- 3) Disclosing information that is not confidential.

**Other Disclosures**

A Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosed, or information that may have a material financial effect on the Board member.

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities.

**LEGAL REFERENCE****Education Code**

35010 Power of governing board to adopt rules for its own governance

35146 Closed session

**EVIDENCE CODE**

1040 Privilege for official information

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**GOVERNMENT CODE**

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records

95950-56963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed session: "employee" defined; exclusion of witnesses

54957.1 Subsequent public report and roll call vote; employee matters in closed session

54957.5 Public records

54957.6 closed session; representatives with employee organization

54957.7 Reasons for closed session

54963 Confidential Information in closed session

**ATTORNEY GENERAL**

80 Ops.Cal.Atty.Gen.231 (1997)

Board Adopted:

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**BOARD MEMBER ELECTRONIC COMMUNICATIONS**

The Governing Board recognizes that electronic communication among Board members and between Board members, district administration, and members of the public is an efficient and convenient way to communicate and expedite the exchange of information and to help keep the community informed about the goals, programs, and achievements of the district and its schools. Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendaized Board meeting.

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the press shall be forwarded to the designated district spokesperson.

In order to minimize the risk of improper disclosure, Board members shall avoid reference to confidential information and information acquired during closed session.

Board members may use electronic communications to discuss matters other than district business with each other, regardless of the number of members participating in the discussion.

Like other writings concerning district business, a Board member's electronic communication may be subject to disclosure under the California Public Records Act.

As all communications during a public Board meeting are subject to the California Public Records Act, Board members will not use electronic communication devices during Board meetings to communicate either internally or externally.

(cf. 1340 - Access to District Records)

# **BYLAW**

**NO. 9012 (b)**

## **MANTECA UNIFIED SCHOOL DISTRICT**

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### **Legal Reference:**

#### **EDUCATION CODE**

35140 Time and place of meetings

35145 Public meetings

35145.5 Agenda; public participation; regulations

35147 Open meeting law exceptions and applications

#### **GOVERNMENT CODE**

11135 State programs and activities, discrimination

54950-54963 The Ralph M. Brown Act, especially:

Date Adopted: August 20, 2013

**MANTECA UNIFIED  
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**QUALIFICATIONS**

Each member of the Board shall meet the following qualifications.

1. He or she shall be 18 years of age or older, a citizen of the state, a resident of the School District, a resident of the trustee area from which he or she is to be elected as described under the San Joaquin County Board of Supervisors' Order No. R-65-528, dated June 15, 1965, and filed under Instrument No. 30984 of the County Recorder's Office, a registered voter, and not disqualified by the Constitution or laws of the state from holding civil office. (Education Code 35107, 72103)
2. He or she shall not have a vested interest in any contract of the Board. (Education Code 35230, 72530; Government Code 13)
3. He or she shall, before entering the duties of his or her office, take and subscribe the oaths prescribed by statute. (California Constitution Article XX3; Government Code 1360-1369)

Legal Reference: Education Code  
35107, 72103, 35230, 72530

Government Code  
13, 1360-1369

San Joaquin County Board of Supervisors' Order No. R-65-528

Date Adopted: March 30, 2004

**MANTECA UNIFIED  
SCHOOL DISTRICT**

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**REMOVAL**

A Board member may be removed from the Board by death, resignation, recall, or termination of District or area residency. Also, removal may be effected by grand jury indictment and subsequent conviction by the court and pronounced judgment that the defendant be removed from office for willful and corrupt misconduct. Such judgment shall be entered upon the minutes and the causes of removal shall be assigned therein. (Education Code 5090, 35233, 72533; Government Code 1770, 3060 et seq., 3072)

Legal Reference: Education Code  
5050 et seq.  
5090, 35233, 72533  
  
Government Code  
1770, 3060 et seq., 3072

Date Adopted: March 30, 2004



### **Section III**

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# *Law & Justice*



# **San Joaquin County Grand Jury**



## **2014-2015 LAW AND JUSTICE REPORT**

### **Overview**

California Grand Juries are mandated (PC Sec. 919(b)) to review detention facilities within its county jurisdiction whether operated by the State of California, the county, or any city. The 2014-2015 San Joaquin County Civil Grand Jury complied with that mandate with presentations about and tours of all detention facilities within the county. The Grand Jury also participated in 28 ride-alongs with public safety agencies.

The State has four detention institutions operating in the County: Deuel Vocational Institution (DVI) for adult males; O.H. Close and N.A. Chaderjian for juvenile males; and the California Health Care Facility (CHCF), which provides medical care and mental health treatment to inmates who have the most severe and long-term needs. San Joaquin County has two detention facilities: the San Joaquin County Jail and the Juvenile Detention Center. The Grand Jury also inspected the county's court holding and staging facilities at Stockton Superior Court, Lodi, Manteca, and Juvenile Justice staging areas.

This report will focus on the following detention facilities and law and justice issues in the county:

- Deuel Vocational Institution
- California Health Care Facility
- Stockton Police Department
- AB109, Proposition 47, and Pretrial Services

### **Deuel Vocational Institution**

Deuel Vocational Institution (DVI) is a State-operated facility, located near Tracy, California. The facility opened in 1953 as a Youth Authority Vocational School. Over time, the facility has grown and has served different needs of the California Department of Correction and Rehabilitation (CDCR).

DVI currently houses adult males with a primary mission to serve as a reception center that receives inmates from 29 Northern California counties. At DVI's Reception Center the staff processes inmates by compiling and evaluating the inmates' criminal records, life histories, and medical and social histories. The information is used to determine the inmates' custody score and to identify any specific placement needs the inmates may have. Once the reception process is completed, the inmates are transferred to one of the State's prisons, although some inmates remain at DVI.

The general population inmates at DVI provide support to the institution by working maintenance, food service, janitorial, as well as other jobs that support the operation of the prison. General population inmates also have the opportunity to attend education programs that include adult basic education, GED, career technical education (computer literacy, building maintenance, heating ventilation air conditioning, auto body/bicycle repair, and woodworking) and a multitude of other voluntary programs that afford the inmates an opportunity for self-improvement. Once repaired, the bicycles are returned to the Tracy community.

The California Prison Industry Authority (CALPIA) operates a dairy farm and a complete dairy processing line on DVI grounds, which consists of about 1,400 head of cattle, with 600 being milked on any given day, producing approximately 162,000 gallons of milk per month. The farm produces dairy products for all Northern California prisons and state hospitals. Minimum security inmates who participate receive valuable training for future employment in the dairy industry.

The 2014-2015 Grand Jury toured and inspected DVI and found training and educational practices at DVI occurring without any employment placement services when inmates are released.

At the time of inspection the self-contained, reverse osmosis drinking water system was not in full operation.

### **California Health Care Facility**

The California Health Care Facility (CHCF) provides medical care and mental health treatment to inmates who have the most severe and long term needs. The 1.4 million-square-foot facility is certified to provide intermediate level care and to complement less acute treatment provided in other prisons operated by the California Department of Corrections and Rehabilitation (CDCR). The \$839 million facility is designed to care for the State's most medically needy inmates.

The 54 building complex is located in south Stockton on the site of the former Karl Holton Youth Correctional Facility. It provides housing and treatment for more than 1,700 inmate-patients provided by a professional health care staff of 2,500 from CDCR, the Department of State Hospitals, and the California Correctional Health Care. The facility was designed to expand to meet future needs.

The California Health Care Facility's mission is to:

- House inmate-patients of all security levels efficiently
- Provide acute medical and mental health treatment safely and cost effectively

- Provide opportunities for rehabilitation with programs such as vocational and academic training, and substance abuse treatment

To do this, CHCF presently has 337 high acuity medical beds, 673 low acuity medical beds, 432 intermediate care mental health beds, 98 mental health crisis beds, and 100 beds for inmate workers. CHCF also offers dental care, dialysis treatment, and diagnostic care.

San Joaquin General Hospital, just over seven miles away, provides more intensive care and surgery not available at the CHCF. Inmate-patients are housed in a secure, guarded area separate from other patients in a ward constructed at State expense.

The 2014-2015 Grand Jury were the first jurors to tour and inspect the CHCF since it opened in July 2013. Jurors became immediately aware that this new facility provides the care needed for a rapidly aging and medically-challenged inmate population.

## **Stockton Police Department**

The Stockton Police Department (SPD) is actively attempting to bridge the gap between the Department and the Stockton community, this at a time when the gap between the two seems to be growing in many communities. The SPD is working to build community partnerships by implementing recruiting efforts to make the Department reflect the diverse community it serves, through town hall meetings, the Operation Ceasefire anti-violence program, the use of both patrol car cameras, and body cameras.

Stockton's bankruptcy led to reductions in pensions, pay, and benefits for officers. More than 100 officers left the Department during those fiscally strenuous years that also coincided with a rise in violent crime.

With bankruptcy resolved and more funds available, the SPD recruiting efforts are expanding, led by a diverse team of officers who target academies, job fairs, and colleges for potential applicants. SPD periodically holds orientations and physical agility activities to build relationships with potential candidates and to help them succeed in the hiring process.

Long-term recruitment strategies include opening a storefront recruiting station. There are plans to expand volunteer programs to mentor and prepare individuals with Junior Cadet programs. SPD recruiters also plan to visit local schools in order to find and attract individuals interested in law enforcement careers.

SPD also is in the midst of a pilot program using the ShotSpotter System. The system detects the sound of gunfire and triangulates its origin making it possible for patrol officers to respond more quickly. ShotSpotter now covers a 2-square-mile area of south Stockton. If it proves successful, there are plans to expand the coverage area. The Stockton Police Foundation has committed to raise an additional \$100,000 to cover the next two square mile area. SPD's goal is to cover 8.3 square miles as soon as funding is available.

The Operation Ceasefire Program is an evidence-based strategy that employs the direct communication of a powerful anti-violence message to young people at highest risk of violence. Ceasefire uses intensive data collection and analysis of violence. The program delivers a strong message to violent young people through group meetings and one-on-one sessions with likely shooters and victims. There are field contacts, and outreach with members of actively violent groups.

In March 2015, the U.S. Department of Justice (DOJ) announced that Stockton has been selected as one of six pilot sites for the National Initiative for Building Community Trust and Justice, a program designed to improve relationships between law enforcement officers and their communities. The initiative, a \$4.75 million partnership between the DOJ and criminal justice experts, will invest in training, evidence-based strategies, police development, and research to combat distrust and mend bonds between law enforcement agencies and the communities they serve. The initiative will provide training to law enforcement and communities on bias reduction, procedural fairness, and racial reconciliation.

The Grand Jury commends and appreciates the diligent efforts of Stockton Police Chief Eric Jones and the officers and staff of the Stockton Police Department.

### **AB109, Proposition 47, and Pretrial Services**

The 2014-2015 Grand Jury's initial concern was overcrowding at the San Joaquin County Jail. Jurors observed the condition of the County Jail and the release of prisoners. They studied the effects of Assembly Bill 109, the prison realignment legislation approved in 2011, and the role that it played in overcrowding of the County Jail. Realignment diverted some inmates into county jails statewide.

In November 2014, California voters passed Proposition 47, "the initiative that reduces the classification of most nonserious and nonviolent property and drug crimes from a felony to a misdemeanor," and overcrowding of the County Jail was reduced significantly. The decreased number of prisoners housed at the Jail led jurors to examine San Joaquin County's Probation Department's Pretrial Services to determine its effect on inmate population.

A new program, based on Virginia's "Pretrial Risk Assessment Instrument Tool," changed how county officials decide which defendants are released before trial. The program aims to assess who is least likely to reoffend and most likely to keep court dates and release them, and to hold defendants considered dangerous to the community

Officials say the new program, which was launched October 27, 2014, has helped them carry out the process more effectively and efficiently. Defendants are assessed and scored for release suitability using tools that have worked in other states.

Prior to this change there were more people in the Jail awaiting court appearances than there were serving actual sentences. In the past, the County Jail routinely released defendants early (both pretrial and sentenced) due to a court-ordered cap on the Jail population.

## **Section IV**

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*Follow Up*



# **San Joaquin County Grand Jury**



## **Review and Investigation of Responses to the 2013-2014 Final Grand Jury Report**

Civil grand juries are charged with the mission of acting as the “Watch Dog” of the government for the citizens of each county in the State of California. The 2013-2014 Grand Jury issued its final report in June 2014, which consisted of eight individual investigations, eight law and justice reports, and 10 follow-up reports on government agencies, departments, school districts, and special districts throughout San Joaquin County. These individual investigations, visits, and follow-up reports generated 62 findings and 41 recommendations.

Submission of responses to final reports is an important component of the grand jury process. Governing bodies of public agencies and elected officials are required to respond to grand jury findings and recommendations that pertain to matters under their authority. Penal Code (PC) Section 933(c) requires that governing agencies submit their responses within 90 days after the grand jury issues a final report; elected officials must respond within 60 days to the Presiding Judge of the Superior Court. Elected officials or governing agencies must specifically respond to each finding and each recommendation. PC Section 933.05(a) requires that for each grand jury finding, the responding person or entity must indicate one of the following:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, specifying the portion of the finding that is disputed, and including an explanation of the reasons for the dispute.

For each grand jury recommendation, PC Section 933.05(b) further requires that the responding person or entity must report one of the following actions:

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

- The recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the final grand jury report.
- The recommendation shall not be implemented because it is not warranted or is not reasonable, with an explanation included.

The succeeding grand jury may review the agency's response to the findings and recommendations and may elect to confirm compliance or further investigate and issue a new report if necessary. The 2014-2015 Grand Jury reviewed each of the responses to the 2013-2014 Grand Jury Final Report.

Each agency's response to the 2013-2014 Grand Jury recommendations required review and documentation confirming the respondent performed the action. Some of the follow-up reviews required face-to-face interviews and site visits to discuss clarification of last year's recommendations and agency responses. The 2014-2015 Grand Jury found these face-to-face interactions to be valuable and recommends that future grand juries utilize these interactions for follow-up reports.

The following reports include: all findings and recommendations from the 2013-2014 Grand Jury Final Report, the agency responses, and the 2014-2015 Grand Jury responses to the recommendations. The complete agency responses may be located on the San Joaquin County Grand Jury website under "Previous Grand Jury Rosters and Reports" at:

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

# **Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 0113**



## **San Joaquin County Reclamation Districts: Limited Resources for a Big Task**

### **Preface**

This report contains the methods the 2014-2015 Grand Jury used to determine if the Reclamation Districts in San Joaquin County responded to the 2013-2014 Grand Jury Report, “San Joaquin County Reclamation Districts: Limited Resources for a Big Task.” The 2013-2014 Grand Jury recommendations were meant to strengthen the Districts’ operations, efficiency, and compliance with applicable laws.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the Reclamation Districts’ (June 25, 2014 through March 30, 2015) responses, are presented verbatim. The 2014-2015 Grand Jury follow-up results are presented after the Reclamation Districts’ response to each recommendation.

A complete copy of the original report and the District 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>County</b>   | San Joaquin County                                                                |
| <b>District</b> | Reclamation District in San Joaquin County formed under the California Water Code |

|                          |                                                                                                                                                     |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LAFCo</b>             | San Joaquin County Local Agency Formation Commission                                                                                                |
| <b>Special Districts</b> | A unit of local government, separate from cities and counties, which provide public services such as fire protection, water supply, and reclamation |
| <b>Trustee</b>           | Member of the Board of Trustees of a Reclamation District either by election or appointment                                                         |

## **Follow-Up Investigation**

The 2014-2015 Grand Jury reviewed the 2013-2014 Grand Jury Final Report, additional documentation, District responses, and determined that some Districts responded to the recommendations but did not respond to the findings. Other Districts are either inactive or failed to respond. Of those District responses received and reviewed, the Grand Jury determined that they implemented the 2013-2014 Grand Jury recommendations.

## **Findings, Recommendations, Agency Responses and Grand Jury Results**

### **1.0 Contracting for Services**

#### **Findings**

**2013-2014 Finding 1.1:** “A number of Reclamation Districts do not have signed contracts for some of their professional services which may affect reimbursement for costs incurred in an emergency.”

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** “Agree.”

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** “Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency.”

**Reclamation District 348:** “... (The District agrees with the finding. Penal Code § 933.05 (a)(1)).”

**Reclamation District 524:** “Reclamation District No. 524 evaluated its contracts with all professional services.”

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"While the District does have signed contracts with those that provide professional services for it that may assist it in obtaining reimbursements in case of an emergency, it does not know which, if any, reclamation districts do not."*

**Reclamation Districts 2029, 2044, 2064:** *"District has written agreements with its auditors, engineers and attorneys, as well as agreements with its part-time independent contractors (manager and secretary)."*

**Reclamation District 2058:** *"The District currently has signed contracts in place for the professional services it receives."*

**Reclamation District 2085:** *"RD 2085 has signed agreements/contracts for legal services, engineering services and independent contractor services."*

**Reclamation District 2086:** *"The District does not know which other reclamation districts do not have signed contracts for some of their professional services which may affect reimbursement for costs incurred in an emergency."*

**Reclamation District 2116:** *"RD 2116 is inactive."*

**2013-2014 Finding 1.2:** *"Some Reclamation District contracts do not identify all of the services provided by the legal firm."*

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** *"Agree."*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *"Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency."*

**Reclamation District 348:** *"... (The District agrees with the finding, but no written contracts existed to which it would apply. Penal Code § 933.05 (a)(1))."*

**Reclamation District 524:** *"Reclamation District No. 524 requested legal firm prepare contract identifying services; which was reviewed and executed on September 10, 2014."*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"While the District already has a contract for legal services that identifies the services that are subject to the contract, it agrees that reclamation districts contracts for legal services should identify the services provided under the contract."*

**Reclamation Districts 2029, 2044, 2064:** *"The District has a written agreement for legal services that identifies the scope of services that are subject to the contract."*

**Reclamation District 2058:** *"The District's current contract identifies all of the services provided by its legal firm. The District's legal firm acts as general counsel for the District. As such, the firm provides legal counsel, representation, research, and opinions to the District's Board of Trustees on various legal matters as needed. The firm does not provide general or financial administrative support to the District."*

**Reclamation District 2085:** *"RD 2085's Legal Services Agreement includes a "Scope of Services" section."*

**Reclamation District 2086:** *"The District does not know which other reclamation districts do not have contracts for services provided by legal firms."*

**Reclamation District 2116:** *"RD 2116 is inactive."*

**2013-2014 Finding 1.3:** *"Having professional services contracts with legal and engineering firms in place and approved may assist Districts to recover funds from federal and state agencies following an emergency."*

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** *"Agree."*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *"Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency."*

**Reclamation District 348:** *"... (The District agrees with the finding. Penal Code § 933.05 (a)(1))."*

**Reclamation District 524:** *"Reclamation District No. 524 received, reviewed, and executed new contracts with its law firm and engineering firm."*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"While the District already has legal and engineering services contracts in place, it agrees that having written professional services agreements may assist reclamation districts in obtaining state and federal funds."*

**Reclamation Districts 2029, 2044, 2064:** *"The District has engineering and attorney services contracts."*

**Reclamation District 2058:** *"The District currently has approved professional services contracts with legal and engineering firms in place."*

**Reclamation District 2085:** *"RD 2085 has signed agreements/contracts for both legal and engineering services."*

**Reclamation District 2086:** *“The District agrees that having written professional services agreements may assist reclamation districts in obtaining state and federal funds.”*

**Reclamation District 2116:** *“RD 2116 is inactive.”*

## **Recommendations**

**2013-2014 Recommendation 1.1:** *“No later than November 1, 2014, the Board of Trustees of each Reclamation District is to review their current legal services contract to assure it contains all services provided by the law firm and that the contract contains all relevant information required under Federal and State laws and regulations to assure reimbursement of permitted costs in the event of an emergency.”*

**Reclamation Districts 1, 2107:** *“The Board of Trustees of ... (each District) will review it's current legal services agreement to assure that it contains all provisions necessary to maintain eligibility for reimbursement in emergencies and non-emergencies. This Reclamation District meets on an as needed basis and within the schedules of the volunteer Trustee members. Due to these constraints, the legal services contract will be reviewed by the November 1, 2014 deadline, or soon thereafter. Keeping in mind however that legal services are currently not a reimbursable expense under state and federal reimbursement programs.”*

**Reclamation Districts 2, 544, 756, 2028, 2042, 2075, 2089:** *“... (Each District) does not currently have a legal services agreement. This Reclamation District meets on an as needed basis and within the schedules of the volunteer Trustee members. Due to these constraints, the legal services contract will be reviewed by the November 1, 2014 deadline, or soon thereafter. Keeping in mind however that legal services are currently not a reimbursable expense under state and federal reimbursement programs.”*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *“Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency.”*

**Reclamation District 348:** *“Per finding F 1.1, above, no written contract for legal services existed for review. See R 1.2, below. (Penal Code § 933.05 is inapplicable in that no written contracts existed at the time the Recommendation was issued.)”*

**Reclamation District 524:** *“Reclamation District No. 524 executed new contract with Kroloff, Belcher, Smart, Perry & Christopherson on September 10, 2014, that includes a section on services provided, to assure reimbursement of permitted costs in the event of an emergency.”*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *“The District has in place a signed legal services contract with District Legal Counsel, and has reviewed the sufficiency of said contract.”*

**Reclamation Districts 2029, 2044, 2064:** *“As stated above, the District has a written agreement for legal services contract with its legal counsel who also acts as its Secretary. The District periodically reviews and renews its agreements.”*

**Reclamation District 2030:** *“District Counsel has represented RD 2030 for nearly 30 years. While no formal contract is required, RD 2030 will adopt a contract with its legal counsel which meets the requirements described in the recommendations which will be effective as of the commencement of Fiscal Year 2015-2016.”*

**Reclamation District 2058:** *“As stated above, the District currently has an approved professional services contract with its legal counsel. This agreement is reviewed and updated as necessary.”*

**Reclamation District 2074:** *“District Counsel has represented RD 2074 for nearly 25 years. While no formal contract is required, RD 2047 will adopt a contract with its legal counsel which meets the requirements described in the recommendations which will be effective as of the commencement of Fiscal Year 2015-2016.”*

**Reclamation District 2085:** *“RD 2085 will schedule a review of its legal services agreement at its next regular meeting, anticipated to be August 5, 2014.”*

**Reclamation District 2086:** *“The District has a legal services contract with District Legal Counsel.”*

**Reclamation District 2116:** *“RD 2116 is inactive.”*

**The 2014-2015 Grand Jury determined that Reclamation Districts 38, 403, 1007, 2033, 2062, 2094, 2095, 2096, 2114, 2118 are either inactive or failed to respond. No further action is required.**

**2013-2014 Recommendation 1.2:** *“No later than November 1, 2014, the Board of Trustees of each Reclamation District without a current written contract for legal services adopt a legal services contract that contains all services provided by the law firm and all relevant information required under Federal and State laws and regulations to assure reimbursement of permitted costs in the event of an emergency.”*

**Reclamation Districts 1, 2:** *“The Board of Trustees of ... (each District) will adopt a legal services contract that strives to contain all provisions necessary to maintain eligibility for reimbursement in emergencies and non-emergencies. This Reclamation District meets on an as needed basis and within the schedules of the volunteer Trustee members. Due to these constraints, the legal services contract will be adopted by the November 1, 2014 deadline, or soon thereafter. Keeping in mind however that legal services are currently not a reimbursable expense under state and federal reimbursement programs.”*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *“Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and*

*engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency."*

**Reclamation No. 348:** *"... (The District has determined that a written contract for legal services at this time is not warranted. Penal Code § 933.05(b)(4))."*

**Reclamation District 524:** *"Reclamation District No. 524 executed new contract with Kjeldsen, Sinnock & Nuedeck on September 10, 2014, which provides a scope of work to assure reimbursement of permitted costs in the event of an emergency."*

**Reclamation Districts 544, 756, 2028, 2042, 2075, 2089, 2107:** *"The Board of Trustees ... (each District) will adopt a legal services contract that strives to contain all provisions necessary to maintain eligibility for reimbursement in emergencies and non-emergencies. This Reclamation District meets on an as needed basis and within the schedules of the volunteer Trustee members. Due to these constraints, the legal services contract will be adopted by the November 1, 2014 deadline, or soon thereafter. Keeping in mind however that legal services are currently not a reimbursable expense under state and federal reimbursement programs."*

**Reclamation Districts 773, 828, 1608, 1614, 2086, 2115, 2126:** *"In light of the District's response to Recommendation R 1.1, no response is required for this item."*

**Reclamation Districts 2029, 2044, 2064:** *"Please see responses to Findings, supra."*

**Reclamation District 2030:** *"District Counsel has represented RD 2030 for nearly 30 years. While no formal contract is required, RD 2030 will adopt a contract with its legal counsel which meets the requirements described in the recommendations which will be effective as of the commencement of Fiscal Year 2015-2016."*

**Reclamation District 2058:** *"The District has a current written contract for legal services in place."*

**Reclamation District 2074:** *"District Counsel has represented RD 2074 for nearly 25 years. While no formal contract is required, RD 2074 will adopt a contract with its legal counsel which meets the requirements described in the recommendations which will be effective as of the commencement of Fiscal Year 2015-2016."*

**Reclamation District 2085:** *"N/A."*

**Reclamation District 2116:** *"RD 2116 is inactive."*

**The 2014-2015 Grand Jury determined that Reclamation Districts 38, 403, 1007, 2033, 2062, 2094, 2095, 2096, 2114, 2118 are either inactive or failed to respond. No further action is required.**

**2013-2014 Recommendation 1.3:** *"No later than November 1, 2014, the Board of Trustees of each Reclamation District is to review their current engineering services contract to assure it contains all relevant information required under Federal and State laws and regulations to assure reimbursement of permitted costs in the event of an emergency."*

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** *"The Board of Trustees of ... (each District) will review its engineering services contract to assure it contains all provisions necessary to maintain eligibility for reimbursement in emergencies and non-emergencies. This Reclamation District meets on an as needed basis and within the schedules of the volunteer Trustee members. Due to these constraints, the engineering services contract will be reviewed by the November 1, 2014 deadline, or soon thereafter."*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *"Not later than December 31, 2014, ... (each) Board of Trustees will review its current legal services and engineering contracts to assure/ensure that the legal services contract contains all services provided by the law firm and will also strive to assure/ensure that both its legal services and engineering contracts contain all relevant information required under Federal and State laws and regulations to assure/ensure reimbursement of permitted costs in the event of an emergency."*

**Reclamation District 348:** *"Per finding F 1.1, above, no written contract for professional engineering services existed for review. A contract has been set forth which details the scope of professional engineering to be provided. The parties have agreed to all provisions of the agreement and finalized the agreement including provisions related to scope of work. The District approved the contract by formal resolution of January 8, 2015, which written agreement is being circulated for signature."*

**Reclamation District 524:** *"Reclamation District No. 524 executed new contract with Kjeldsen, Sinnock & Nuedeck on September 10, 2014, which provides a scope of work to assure reimbursement of permitted costs in the event of an emergency."*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"The District has in place a signed engineering services contract with the District Engineer, and has reviewed the sufficiency of said contract."*

**Reclamation Districts 2029, 2044, 2064:** *"As stated the District has a written engineering services agreement with the District Engineer which was recently reviewed before being renewed."*

**Reclamation District 2030:** *"RD 2030 adopted its first written contract with its engineering consulting firm (Kjeldsen Sinnock) approximately eight months ago. That contract complies with the recommendation of the Grand Jury."*

**Reclamation District 2058:** *"As stated above, the District currently has an approved professional services contract with its engineering firm. This agreement is reviewed and updated as necessary."*

**Reclamation District 2074:** *"RD 2074 for years has maintained annual written contracts with its District Engineering Firm (Siegfried & Associates) which comply with the recommendations of the Grand Jury."*

**Reclamation District 2085:** *"RD 2085 will schedule a review of its engineering services agreement at its next regular meeting, anticipated to be August 5, 2014."*

**Reclamation District 2086:** *"The District has requested, and after approval by the Board, will have in place an engineering services contract with the District Engineer."*

**Reclamation District 2116:** *"RD 2116 is inactive."*

**The 2014-2015 Grand Jury determined that Reclamation Districts 38, 403, 1007, 2033, 2062, 2094, 2095, 2096, 2114, 2118 are either inactive or failed to respond. No further action is required.**

## **2.0 Financial Operations**

### **Findings**

**2013-2014 Finding 2.1:** *"Many small Districts are unable to maintain the separation of financial duties that are recommended by generally accepted accounting practices due to their size and lack of financial resources."*

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** *"Agree."*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *"No later than December 31, 2014, ... (each District) will prepare the framework for an annual operating budget and utilize it for all subsequent fiscal years."*

**Reclamation District 348:** *"... (The District agrees with the finding as it may apply to other small districts, but has determined that it is in compliance as to standards of separation of function and GAAP. Penal Code § 933.05(a)(1))."*

**Reclamation District 524:** *"Finding reviewed."*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"While the District maintains and follows generally accepted accounting practices which are audited annually by an independent auditor, it does not know which, if any, reclamation districts do not."*

**Reclamation Districts 2029, 2044:** *"The District has always followed those generally accepted accounting practices which are audited annually by an independent auditor which is then submitted to State agencies."*

**Reclamation District 2058:** *"The District maintains and follows generally accepted accounting practices. The District's financial statements are audited annually by an independent auditor and are available to the public."*

**Reclamation District 2064:** *"The District has always followed those "generally accepted accounting practices" which are audited annually by an independent auditor. The Annual Report is submitted to State agencies."*

**Reclamation District 2085:** *“RD 2085’s financial duties are performed by a hired independent contractor. It is not economically feasible or efficient to have multiple independent contractors in order to maintain a separation of financial duties. The Board of Trustees practices review and approval procedures, although there isn’t a written policy.”*

**Reclamation District 2086:** *“The District maintains and follows generally accepted accounting practices. Audited financial statements are prepared annually. The District does not know which, if any, reclamation districts do not.”*

**Reclamation District 2116:** *“RD 2116 is inactive.”*

**2013-2014 Finding 2.2:** *“Some Districts do not prepare and adopt annual budgets which outline its proposed expenditures for the forthcoming fiscal year and which results in diminished transparency about the District’s finances.”*

**Reclamation Districts 1, 2, 544, 756, 2028, 2042, 2075, 2089, 2107:** *“No personal knowledge of this. This Reclamation District adopts an annual budget of proposed expenditures for the forthcoming fiscal year.”*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *“No later than December 31, 2014, ... (each District) will prepare the framework for an annual operating budget and utilize it for all subsequent fiscal years.”*

**Reclamation District 348:** *“... (The District agrees with the finding and, itself, does not prepare a formal budget. Penal Code § 933.05 (a)(1)).”*

**Reclamation District 524:** *“Finding reviewed.”*

**Reclamation Districts 773, 1608, 1614, 2126:** *“While the District already prepares annual budgets for each fiscal year which are available to the public, it does not know which reclamation district’s do not.”*

**Reclamation District 828:** *“While the District already prepares budgets for each fiscal year which are available to the public, it does not know which reclamation district’s do not.”*

**Reclamation District 2029:** *“The District, although very small (consisting of 18 landowners), prepares annual “working” budgets for each fiscal year July 1 through June 30, which can be made available to the public and said budget was submitted with our initial response.”*

**Reclamation District 2044:** *“The District, although very small (consisting of 16 landowners), prepares annual “working” budgets for each fiscal year July 1 through June 30, which can be made available to the public and said budget was submitted with our initial response.”*

**Reclamation District 2058:** *“The District prepares and adopts annual budgets outlining its proposed expenditures for each fiscal year. These budgets are available to the public.”*

**Reclamation District 2064:** *"The District prepares an annual "working" budget for each fiscal year July 1 through June 30, which is always available to the public."*

**Reclamation District 2085:** *"RD 2085 annually adopts a budget that includes anticipated repair and maintenance expenditures."*

**Reclamation District 2086:** *"The District already prepares budgets for each fiscal year which are available to the public. The District does not know which reclamation districts do not."*

**Reclamation District 2115:** *"While the District already prepares annual subvention fund budgets for each fiscal year which are available to the public, it does not know which reclamation district's do not."*

**Reclamation District 2116:** *"RD 2116 is inactive."*

## **Recommendations**

**2013-2014 Recommendation 2:** *"No later than December 31, 2014, all Districts that do not have an adopted annual operating budget are to prepare the framework for an annual budget and utilize it for all subsequent fiscal years."*

**Reclamation Districts 1, 2:** *"... (Each District) has and will continue to adopt an annual operating budget."*

**Reclamation Districts 17, 404, 548, 684, 2023, 2027, 2037, 2038, 2039, 2040, 2041, 2072, 2113, 2119:** *"No later than December 31, 2014, ... (each District) will prepare the framework for an annual operating budget and utilize it for all subsequent fiscal years."*

**Reclamation District 348:** *"Per finding 2.2, above, no formal budget is prepared by Reclamation District No. 348 because the regularity of revenues and expenditures is such that doing so would be a waste of the taxpayers' money and there is no known regulatory or statutory requirement to do so. The only benefit of availability of a formal budget would be transparency as to the district's finances which would be available to taxpayers from such a document. Reclamation District No. 348 has addressed this objective by compliance with Government Code § 53901 in filing this required financial information with the San Joaquin County Auditor-Controller on September 4, 2014. (The District has determined that a formal budget at this time is not warranted and has addressed the need for transparency subject of this finding by compliance with Government Code § 53901. Penal Code § 933.05 (b)(4))."*

**Reclamation District 524:** *"Reclamation District No. 524 has prepared, approved, and submitted its annual budget per Government Code Section 53901."*

**Reclamation Districts 544, 756, 2028, 2042, 2075, 2089, 2107:** *"... (Each District) has and will continue to adopt an annual operating budget."*

**Reclamation Districts 773, 828, 1608, 1614, 2115, 2126:** *"In light of its response to Finding E 2.2, no response is required for this item."*

**Reclamation Districts 2029, 2044, 2064:** *“Please see Districts response to Finding E 2.2.”*

**Reclamation District 2030:** *“RD 2030 submitted budgets for the years covered by the Grand Jury’s survey, has maintained annual budgets for many years, and adopts budgets for each fiscal year as a matter of standard practice.”*

**Reclamation District 2074:** *“RD 2074 submitted budgets for the years covered by the Grand Jury’s survey, has maintained annual budgets for many years, and adopts budgets for each fiscal year as well as capital expenditure budgets on a ten year rolling basis.”*

**Reclamation District 2085:** *“N/A.”*

**Reclamation District 2086:** *“In light of the District’s response to Finding F 2.2, no response is required for this item.”*

**Reclamation District 2116:** *“RD 2116 is inactive.”*

**The 2014-2015 Grand Jury concluded that Reclamation Districts 38, 403, 1007, 2033, 2062, 2094, 2095, 2096, 2114, 2118 are either inactive or failed to respond. No further action is required.**

### **3.0 Are there more efficient organizations?**

#### **Findings**

**2013-2014 Finding 3.1:** *“LAFCo has not conducted the Municipal Services Review for Reclamation Districts in the County due to personnel and financial constraints, limiting objective information on how well Reclamation Districts are performing their mandated services.”*

**Agency Response:** *“Agree. The LAFCo Commission’s work program for fiscal year 2014-2015 includes conducting a Municipal Service Review on the County’s reclamation districts.”*

**2013-2014 Finding 3.2:** *“Trustees of Reclamation Districts have been hesitant to dissolve existing districts, consolidate activities or share operations and responsibilities with other districts because of the cost of the dissolution, concern with personal liability and the ability to continue providing flood control services.”*

**Agency Response:** *“Agree. LAFCo’s Schedule of Fees provides that the Commission may waive or adjust processing fees upon a determination that the proposal would further the purpose of the Cortese Knox Hertzberg Local Government Reorganization Act of 2000. Requests for fee waivers or adjustments must be submitted in writing to the Commission prior to the submittal of any application.”*

## **Recommendations**

**2013-2014 Recommendation 3.1:** “No later than November 1, 2014, as the agency responsible for addressing Reclamation Districts’ level of services provided, LAFCo is to hold a meeting for all Reclamation Districts in the County to jointly discuss how the Districts can better provide services within current financial constraints.”

*Agency Response:* “Agree. LAFCo concurs with this recommendation and will hold a meeting on or before November 1, 2014 to discuss the provision of effective reclamation services within current financial constraints. Additionally, LAFCo may target the November 1, 2014 date to coincide with the Municipal Service Review “kick-off” meeting.”

**The 2014-2015 Grand Jury determined that on October 22, 2014, LAFCo conducted a workshop for Reclamation Districts in San Joaquin County. The workshop included an overview of the history of LAFCo, Municipal Service Review, Sphere of Influence, and the 2013-2014 Grand Jury Report including findings and recommendations. No further action is required.**

**2013-2014 Recommendation 3.2:** “Upon completion of its Municipal Services Report for Reclamation Districts in San Joaquin County, LAFCo is to prepare a summary report for all Districts proposing actions that could provide better services through dissolution, consolidation or shared operations.”

*Agency Response:* “Agree. A requirement of the Commission in its Municipal Service Review is to make determinations regarding opportunities for shared facilities and resources and determinations on governmental structure and operational efficiencies. LAFCo agrees to summarize its determination in a report for all County reclamation districts as recommended.”

**2014-2015 Finding 1: LAFCo surveyed the Districts and intends to prepare the summary report upon completion of the Municipal Service Review (MSR/Sphere of Influence (SOI) Plan), which is expected to be completed in fiscal year 2015-2016.**

## **Conclusion**

The 2014-2015 Grand Jury determined that the majority of Reclamation Districts and LAFCo 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 Reclamation Districts’ and LAFCo’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).

### **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of San Joaquin County Superior Court within 90 days of receipt of the report.

The Local Agency Formation Commission shall respond to the 2014-2015 Finding 1.

Mail or hand-deliver a hard copy of the response to:

Hon. Lesley D. Holland, Presiding Judge

San Joaquin County Superior Court

P.O. Box 201022

Stockton, CA 95201

Also, please email a copy of the response to Trisa Martinez, Staff Secretary to the Grand Jury at: [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org).

# **Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 0413**



## **San Joaquin County Human Services Agency: Fostering Administrative Efficiency**

### **Preface**

This report contains the methods the 2014-2015 Grand Jury used to determine if the San Joaquin County Board of Supervisors responded to the 2013-2014 Grand Jury Report, "*San Joaquin County Human Services Agency: Fostering Administrative Efficiency*." The 2013-2014 Grand Jury recommendations were meant to strengthen the San Joaquin Human Services Agency (HSA) administration of the Foster Care program.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the agency's August 26, 2014 responses, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after the agency's response to each recommendation.

A complete copy of the original report and the agency'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>County</b>  | San Joaquin County                          |
| <b>CWS/CMS</b> | Child Welfare System/Case Management System |

|                                 |                                                                                                  |
|---------------------------------|--------------------------------------------------------------------------------------------------|
| <b>Eligibility Payment Unit</b> | The department of the HSA responsible for making payments to Foster Parents                      |
| <b>Foster Care</b>              | A system in which a minor has been placed into a ward, group home or private home of a caregiver |
| <b>Foster Parent</b>            | A caregiver for a foster child                                                                   |
| <b>SafeMeasures Report</b>      | A computer program where case management notes are entered                                       |
| <b>Social Worker</b>            | An HSA employee who provides social casework and related services for clients                    |
| <b>SOC158A</b>                  | Form completed by the social worker when a child enters or exits the Foster Care program         |

### **Follow-Up Investigation**

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

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

#### **1.0 Training for New and Continuing Foster Parents**

**2013-2014 Finding 1.1:** “The County-sponsored training for new foster parents is outdated.”

*Agency Response:* “Agree. The Agency agrees with the finding that County-sponsored training for new foster parents (pre-licensure) is outdated.”

**2013-2014 Finding 1.2:** “Annual training for continuing foster parents is repetitive.”

*Agency Response:* “Agree. The Agency agrees that the annual training for continuing foster parents contains some repetitive courses from year-to-year.”

**2013-2014 Finding 1.3:** “The County does not offer nor identify support groups to assist foster parents.”

*Agency Response:* “Agree.”

**2013-2014 Recommendation 1.1:** “No later than November 1, 2014, the San Joaquin County HSA is to review and update its training programs for new foster parents as well as its annual training for continuing foster parents to assure relevance, interest to foster parents and a broader breadth of topics.”

**Agency Response:** *“Will be implemented, but not within recommended time-frame. The recommendation to update training for new foster parents is in the process of being implemented. A complete revision to pre-service foster parent training, which currently consists of 30 hours was initiated by the Agency in March of 2014. The goal is to complete one training module revision per month and to implement the new curriculum in the Fall of 2015. The recommendation to review and update annual on-going training available to foster parents is and will continue to be under constant review and ongoing subject topics will be updated as appropriate to current regulation and practice as well as foster parent input.*

- 1) The courses offered to existing foster parents through Delta College are basic augmentations of their pre-service training and are essential to the growth and development of the most recently licensed foster parents. Additionally, there are updated policies and practices pertaining to these topics that may be discussed during the annual trainings, which is informative for continuing foster parents.*
- 2) The Agency sends information pertaining to community or HSA sponsored trainings (often under the auspices of University of California Davis) to foster parents. Foster parents are also encouraged to avail themselves of other local community resources for their continuing education requirements.*
- 3) Foster parents are both able and encouraged to access alternative forms of continuing education through various on-line resources which provide a wide range of topics. According to Licensing Staff, most foster parents choose to take the online annual trainings, due to convenience. San Joaquin County foster parents are approved to take online trainings on the following two websites:  
<http://fosterparents.com/>  
Offers over 145 courses  
<http://www.fosterparentcollege.com/>  
Offers 47 online courses”*

**2014-2015 Finding 1: Human Services Agency is in the process of updating its training curriculum for foster parents. These updates will be completed by the Fall of 2015. HSA plans to have them in use by that time.**

**2013-2014 Recommendation 1.2:** “No later than November 1, 2014, the San Joaquin County HSA is to identify community resources for support groups or provide support group opportunities for foster parents.”

**Agency Response:** *“The Agency will seek to contract with local community resources by November 1, 2014 to establish a Foster Parent Support group for county foster homes.”*

The 2014-2015 Grand Jury determined that HSA has implemented a Support Group Proposal with Lilliput Children's Services that helps to identify community resources for foster parents. For 35 years Lilliput Children's Services has maintained child welfare partnerships throughout California. No further action is required.

## **2.0 Lack of Productive Two-way Communication between HSA Divisions and Personnel**

**2013-2014 Finding 2.1:** "When social workers do not file a form SOC158A in a timely manner it may result in unrecoverable overpayments to foster parents."

*Agency Response:* "Agree."

**2013-2014 Finding 2.2:** "Lack of information shared among the divisions responsible for foster care makes it difficult to track and hold the social workers accountable for submission of late reports."

*Agency Response:* "Agree."

**2013-2014 Recommendation 2.1:** "No later than November 1, 2014, the Eligibility Payment Unit and the Children Services is to develop an information sharing and tracking system to identify and hold social workers accountable for submitting timely payment requests."

*Agency Response:* "Has been implemented. Although the error rate is extremely low (.0001% relative to the Foster Care budget), the Grand Jury report correctly identified that Administration was not always aware of how many late submissions occurred and which staff were responsible. Beginning July 1, 2014, the Foster Care Eligibility Supervisor began providing the Children's Bureau Deputy Director a list of all unrecoverable foster care overpayments to include identification of the amount and the staff person responsible."

The 2014-2015 Grand Jury determined that HSA has implemented an information sharing and tracking system to be utilized by departments. The Foster Care Recovery Account Report is being generated and reviewed on a regular basis. No further action is required.

## **3.0 Required Monthly Visitations by Social Workers**

**2013-2014 Finding 3.1:** "There is a lack of immediate detailed documentation of foster care site visits by social workers. This could result in problems in reviewing or investigating the accuracy of information about problems that exist in a foster home."

*Agency Response:* "Partially Agree. Agency policy instructs case-carrying staff completing in-home visits with children to enter the details of that visit within 7 days into the Child Welfare Services Case Management System. In the event that a case-carrying social worker has a concern regarding the safety of a child or receives a complaint from the child or other person regarding the care or treatment of the child, the social worker contacts the assigned Licensing social worker as soon as possible by telephone, email or in person of their concerns so that the Licensing social worker may initiate an investigation."

*The entry or non-entry of the case-carrying social worker's information into CWS/CMS would not affect the timeliness of response since the protocol for notification of concern to the Licensing social worker is through direct notification from the case-carrying social worker."*

**2013-2014 Finding 3.2:** "A lack of immediate detailed documentation may weaken the accuracy of the SafeMeasures report."

**Agency Response:** *"Partially Agree. Lack of timely data entry only impacts the date by which an accurate of report can be drawn from SafeMeasures. The SafeMeasures reports are statistical and historical by nature, in that they track completion of tasks numerically but not qualitatively. It is used as a tool to identify trends, as opposed to real-time day-to-day oversight. The data that is entered is only compiled by the software every three to four days even if entered daily."*

**2013-2014 Recommendation 3.1:** "No later than December 1, 2014, HSA is to develop a standardized form or checklist to be used by social workers following their monthly on site visits with foster children."

**Agency Response:** *"The Agency will construct and publish a set of guidelines outlining expectations for monthly visits with foster children by December 1, 2014."*

**The 2014-2015 Grand Jury determined that HSA has developed and implemented a standardized checklist for monthly visits by social workers. No further action is required.**

## **Conclusion**

The 2014-2015 Grand Jury determined that the San Joaquin County Board of Supervisors 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 County'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).

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of San Joaquin County Superior Court within 90 days of receipt of the report.

The San Joaquin County Board of Supervisors shall respond to the 2014-2015 Finding 1.

Mail or hand-deliver a hard copy of the response to:

Hon. Lesley D. Holland, Presiding Judge

San Joaquin County Superior Court

P.O. Box 201022

Stockton, CA 95201

Also, please email a copy of the response to Trisa Martinez, Staff Secretary to the Grand Jury at: [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org).

# **Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 0713**



## **Stockton Unified School District: Do After-School Programs Compromise Student Safety?**

### **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: Do After-School Programs Compromise Student Safety?"* The 2013-2014 Grand Jury recommendations were meant to strengthen how the District works with its Community Partners to provide after-school services to SUSD students. The report focused on hiring practices of the Community Partners.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the District's August 13, 2014 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**

#### **ASES**

After School Education and Safety Program, a grant which provides funds for after-school programs in California

|                          |                                                                                        |
|--------------------------|----------------------------------------------------------------------------------------|
| <b>Community Partner</b> | An agency working in partnership with SUSD to provide after-school services            |
| <b>District/SUSD</b>     | Stockton Unified School District                                                       |
| <b>DOJ</b>               | California Department of Justice                                                       |
| <b>NCLB</b>              | No Child Left Behind Act of 2001, federal legislation regarding education requirements |

### **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 Fingerprinting**

**2013-2014 Finding 1:** “Not all Community Partners receive complete and timely background information from the California Department of Justice which would enable them to guarantee that all of their employees are legally eligible to work with children.”

***Agency Response:** “The District agrees that the Grand Jury found that not all Community Partners received complete and timely background information from the Department of Justice (“DOJ”). Because the DOJ reports are sent directly to the Community Partners, the District relies on the Community Partners to inform the District accurately that a Community Partner employee is legally eligible to work with the District’s students.”*

**2013-2014 Recommendation 1:** “By November 1, 2014, Stockton Unified School District is to require all Community Partners to have their own unique contract with the California Department of Justice so that each Community Partner receives fingerprint reports and *Subsequent Arrest Notifications*. ”

***Agency Response:** “This recommendation has been implemented and the District is requiring that each Community Partner has its own unique contract with the California Department of Justice guaranteeing *Subsequent Arrest Notifications* as of July 1, 2014.”*

**The 2014-2015 Grand Jury determined that all Community Partners have their own unique contract in place with DOJ. No further action is required.**

## 2.0 Employee Qualifications

**2013-2014 Finding 2:** “Community Partner administrators do not have expertise in applying the procedures to verify the No Child Left Behind requirements that resulted in unqualified employees working in the after-school programs.”

**Agency Response:** “The District agrees that some Community Partners did not have the expertise to verify NCLB qualifications.”

**2013-2014 Recommendation 2:** “By August 1, 2014, Stockton Unified School District is to provide expertise to the Community Partners in applying NCLB requirements through on-going training and/or consultation.”

**Agency Response:** “This recommendation has been implemented. In July 2014, Personnel Analyst Brenda Blythe provided training to District After School Administrator Janet Yarbrough regarding how to confirm and ensure that the employees of the Community Partners meet NCLB requirements. The training included how to read high school and college transcripts; how to check if schools are accredited; and how to obtain a paraprofessional certificate. Also, a checklist has been created to assist both Ms. Yarbrough and the Community Partners to ensure NCLB compliance. (Exhibit A.) If partners have questions throughout the year, SUSD’s Human Resources Department or Ms. Yarbrough will provide assistance.”

The 2014-2015 Grand Jury determined that District staff provided training to Community Partners in applying NCLB requirements and a checklist, “Exhibit A, NCLB Paraprofessional Requirements”, is being used. No further action is required.

## 3.0 Auditing of Contracts

**2013-2014 Finding 3.1:** “Some of the Community Partners included in the investigation allowed employees to work with students without having reviewed DOJ reports. As a result, the District was potentially exposed to liability and students were potentially endangered.”

**Agency Response:** “The District agrees that the Grand Jury found that some of the Community Partners allowed employees to work with students without the Community Partners first reviewing the DOJ reports.”

**2013-2014 Finding 3.2:** “Some of the Community Partners included in the investigation allowed employees who had not met NCLB requirements to work with students thus jeopardizing the funding from the California After School Education and Safety Program grant.”

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

**2013-2014 Recommendation 3.1:** “No later than December 31, 2014, and not less than annually thereafter, the Stockton Unified School District is to audit the hiring practices of its Community Partners

to determine whether they have received and reviewed Department of Justice reports prior to placing personnel in Stockton Unified School District schools.”

**Agency Response:** *“This recommendation has been implemented. The revised contracts with the ASES Community Partners require quarterly Certificates of Compliance with DOJ and District fingerprinting and hiring requirements. (See sample contract attached hereto as Exhibit B.)”*

**The 2014-2015 Grand Jury determined that SUSD agreed to ask Community Partner staff to voluntarily allow the District to review their fingerprint clearance for employees hired to work in the STEP Up program. However, the District said it is unlikely that all of the Partners will agree. There are privacy issues related to the Partners’ personnel files and DOJ information. No further action is required.**

**2013-2014 Recommendation 3.2:** “No later than December 31, 2014, and not less than annually thereafter, the Stockton Unified School District is to audit the hiring practices of the Community Partners in order to determine whether all personnel hired by the agencies meet the contractual NCLB requirements.”

**Agency Response:** *“This recommendation has been implemented. The revised contracts with the ASES Community Partners require quarterly Certificates of Compliance with NCLB requirements.”*

**The 2014-2015 Grand Jury determined that SUSD agreed to ask Community Partner staff to voluntarily allow the District to review their NCLB requirements for employees hired to work in the STEP Up program. However, the District said it is unlikely that all of the Partners will agree. There are privacy issues related to the Partners’ personnel files. No further action is required.**

**2013-2014 Recommendation 3.3:** “No later than December 1, 2014, Stockton Unified School District is to review its contracts with the providers of after-school programs to ensure the District’s ability to monitor the providers’ compliance with all employee eligibility requirements.”

**Agency Response:** *“This recommendation has been implemented. The standard agreement between the District and the ASES Community Partners has been revised to ensure the District’s ability to monitor the provider’s compliance with all employee eligibility requirements.”*

**The 2014-2015 Grand Jury determined that Community Partners are required to provide the District a quarterly Certificate of Compliance with NCLB and a Certificate of Fingerprinting. The Grand Jury reviewed the Certificates of Compliance and a current employee list for the period ending September 30, 2014. Under the terms of the contract, failure to provide a timely Certificate of Compliance to the District is sufficient reason to terminate the agreement. No further action is required.**

## **4.0 Contract Consistency**

**2013-2014 Finding 4:** “The District’s exclusion of the word “and” at the end of #1 and the word “or” at the end of #2 in contract language found in *Exhibit G* allows these requirements to be interpreted

differently than intended and may lead applicants to believe that they meet NCLB requirements when they do not.”

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

**2013-2014 Recommendation 4:** “By September 1, 2014, the Stockton Unified School District is to modify the contract language of *Exhibit G* so that it is identical to the actual NCLB qualifications.”

*Agency Response: “This recommendation has been implemented. Please see Exhibit B.”*

**The 2014-2015 Grand Jury determined that Exhibit G now matches the NCLB qualifications. 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 except for the privacy issues stated above. 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).



# 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                 |
| <b>Interim Chief</b> | 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).



# **Follow-Up Report to the 2013-2014 San Joaquin County Grand Jury Case No. 1113**



## **Stockton City Council and the Brown Act: The Law Applies to Everyone**

### **Preface**

This report contains the methods the 2014-2015 Grand Jury used to determine if the Stockton City Council responded to the 2013-2014 Grand Jury Report, "Stockton City Council and the Brown Act: The Law Applies to Everyone." The 2013-2014 Grand Jury recommendation was meant to strengthen the City's computerized security functions.

The 2013-2014 Grand Jury Findings and Recommendation, as well as the City's August 27, 2014 responses, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after the City's response to the one 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>Brown Act</b>    | The Ralph M. Brown Act (Government Code Sections 54950 <i>et seq.</i> ) regulating the conduct of public meetings, closed session meetings and related public information requirements |
| <b>City</b>         | The City of Stockton, California                                                                                                                                                       |
| <b>City Charter</b> | The Charter of the City of Stockton which establishes the general framework for the government organization, authority, and operations                                                 |
| <b>City Council</b> | Unless otherwise specified, includes the six elected council members and                                                                                                               |

|                       |                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | the mayor of the City of Stockton                                                                                                                                        |
| <b>City Manager</b>   | The chief executive officer hired by the Stockton City Council to administer day-to-day operations of the City                                                           |
| <b>Closed Session</b> | A meeting of a legislative body outside of public review to discuss specific actions permitted by the California Government Code                                         |
| <b>Council Member</b> | Any of the six elected members of the Stockton City Council; does not include the mayor                                                                                  |
| <b>Mayor</b>          | The current mayor for the City of Stockton elected in November 2012                                                                                                      |
| <b>mayor</b>          | The separately elected mayor of the City of Stockton pursuant to the City Charter with limited and defined authority under the City's Council/Manager form of government |

### **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 recommendation.

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

### **1.0 Release of Confidential Closed Session Information**

**2013-2014 Finding 1.1:** “The Mayor knowingly disclosed information regarding selection of Mr. Garcia as City Manager, prior to City Council approval, and based on discussions and actions that had occurred in legal closed sessions of the Stockton City Council. The disclosure occurred without the authorization of the City Council as required by Government Code Section 54963(a).”

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

**2013-2014 Finding 1.2:** “All members of the City Council were aware that the names of the city manager candidates were known by a number of members of the public weeks in advance of the Mayor’s disclosure. That information would have only been available from disclosure of closed session discussions. However, no Council Member raised a concern or took steps to address the unlawful disclosures during council meetings, closed or open.”

**Agency Response:** *“The respondent agrees in part with this finding. The approval of Resolution 2013-12-03-1502, which admonished Mayor Anthony Silva for an unauthorized release of confidential information from a closed session meeting, demonstrates City Council members did take steps to*

*address disclosures to media. Also, the Legislation Environmental Committee drafted and made changes to Council Policy to strengthen and define what it means to disclose confidential information without permission and created a Censure Policy.”*

**2013-2014 Finding 1.3:** “The repeated release of the candidates’ names to the public, contrary to expressly stated assurances by the City Council, Mayor and recruiter that the names would be kept confidential, potentially exposed the City of Stockton to significant liability.”

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

**2013-2014 Finding 1.4:** “The actions taken by the Mayor in violation of the Brown Act do not appear to be subject to additional criminal or civil penalties.”

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

## **2.0 Recruitment for Stockton City Manager**

**2013-2014 Finding 2.1:** “Overall, the recruitment process for the city manager position was flawed due to a lack of clear leadership and adherence to provisions of the Request for Proposal and recruitment contract.”

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

**2013-2014 Finding 2.2:** “The advertised closing date for the recruitment was three weeks after the City Council met to interview candidates and select two finalists. This may have resulted in highly qualified applicants not being considered.”

**Agency Response:** *“The respondent neither agrees nor disagrees with this finding. While there may have been additional qualified candidates that were not considered, ultimately the process did take additional time and further applications and expressions of interest were accumulated by the Human Resources Department and provided to City Council. It is not uncommon in the recruitment of high-level executives such as City Managers for the selected recruiter to move forward with the process prior to the close of the application period.”*

**2013-2014 Finding 2.3:** “The Mayor was overly involved in the recruitment process to the detriment of a professional recruitment. This far exceeded the nominating authority contained in the City Charter.”

**Agency Response:** *“The respondent partially agrees with this finding. The City agrees that the Mayor was very involved in the recruitment process. However, Mayor Involvement is not uncommon in the recruitment process of a City Manager position. This level of management and leadership has an integral and sometimes complex relationship with the Mayor and Council members. It is important that the Mayor and Council play an active role in the recruitment process. An experienced recruiter should*

*be used to guide Council through a recruitment process. The recruiter should work with Council to determine how they desire the process to work and the recruiter should adhere to that process.”*

**2013-2014 Finding 2.4:** “The series of personal meetings between some Council Members and some applicants resulted in unfair advantages for applicants involved in the meetings.”

***Agency Response:** “The respondent partially agrees with this finding. A Council subcommittee was established to vet the perspective candidates, therefore it was understood by Council there would be meetings with prospective candidates that not all Council members would attend. However, the candidate meetings were not always with the subcommittee and became somewhat inconsistent. This was not consistent with the process initially recommended to and approved by the Council.”*

**2013-2014 Finding 2.5:** “Some Council members had information from personal meetings with applicants that they did not share with other Council Members.”

***Agency Response:** “The respondent neither agrees nor disagrees with this finding. The finding does not provide sufficient information for follow up with Council Members and is too vague to make a determination.”*

**2013-2014 Finding 2.6:** “The lack of experience with executive recruitments for most Council Members was a factor in the recruitment’s failures.”

***Agency Response:** “The respondent partially agrees with this finding. The current Council does not have extensive experience with executive recruitments and the City ascertains that training would provide a benefit for future recruitment efforts. A professional recruiter was used and was unable to provide a process that was effective or that mitigated the complicating factors that typically arise during executive recruitments. The recruiter should be able to be relied upon to guide City Council through recruitment. However, the City does not deem this recruitment a failure in light of the appointment ultimately being made for the current City Manager. With the additional time allowed for the process, the candidate pool was expanded and yielded interest from additional candidates who originally chose not to participate in the process including the person ultimately selected.”*

**2013-2014 Finding 2.7:** “The mishandling of contract negotiations may have been a substantial factor in the failure to reach agreement on employment terms.”

***Agency Response:** “The respondent partially agrees with this finding. Contract negotiations may indeed have been a factor in the failure to reach agreement on employment terms, however there could have been many other factors as well.*

### **3.0 Access to Confidential Information by Mayor's Volunteers**

**2013-2014 Finding 3.1:** "The Mayor has volunteers working out of the Mayor's City Hall office with unknown levels of supervision."

*Agency Response:* "The respondent agrees with this finding."

**2013-2014 Finding 3.2:** "The City of Stockton has no policies or procedures established to provide volunteers working for a mayor or council member with instructions on City policies, procedures, and directives related to access to computer files and the internet."

*Agency Response:* "The respondent disagrees partially with this finding. The City's policy 200-2 established guidelines for all volunteers. The City does not have a policy specifically for volunteers who work directly with the Mayor and the City Council members. However, the current policy relates to and includes all those who volunteer inclusive of all capacities."

**2013-2014 Finding 3.3:** "The City of Stockton has potential liability exposure from volunteers accessing and releasing confidential information obtained through City Hall computer access."

*Agency Response:* "The respondent agrees with this finding. ..."

**2013-2014 Recommendation 3:** "That the City Council adopt an ordinance prior to October 1, 2014, requiring all volunteers working for any City elected official to undergo training through the City's Human Resources Department and Information Technology Department on the City's directives related to computer access, e-mails and security and be required to sign an acknowledgement that they understand and will comply with the directives."

*Agency Response:* "The respondent partially agrees with the recommendation. This recommendation has been referred to the City Auditor for review and further investigation. The City Auditor is currently reviewing City processes which include Human Resource practices and Information Technology procedures. The City does agree to reviewing current policy. Review and analysis will help determine if a change is needed and what vehicle and policy level to utilize to implement the change to garner the most effective outcome."

The 2014-2015 Grand Jury determined that in order to have access to the City's computer system, a Volunteer Confidentiality Agreement must be signed and dated by the volunteer and the respective Mayor and/or City Council member. A City of Stockton Technology System Access Request Form also requires the volunteer's signature. This form lists the Rules of Behavior and User Responsibilities when accessing the City's computer system. The signed forms are filed in the City's Human Resources Department. No further action is required.

## **Conclusion**

The 2014-2015 Grand Jury determined that the Stockton City Council responded pursuant to statute and in a timely manner to the findings and recommendation 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. 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. 1613**



## **Agency Approvals of Responses to Grand Jury Reports: Do They Know What They Approve?**

### **Preface**

This report contains the methods the 2014-2015 Grand Jury used to determine if San Joaquin County Board of Supervisors and the seven cities of the County responded to the 2013-2014 Grand Jury Report, *“Agency Approval of Responses to Grand Jury Reports: Do They Know What They Approve?”* The 2013-2014 Grand Jury recommendation was meant to enhance the deliberative process of public agencies when considering their responses to Grand Jury reports during open meetings.

The 2013-2014 Grand Jury Findings and Recommendation, as well as the eight agency responses received between July 15 to December 3, 2014, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after each agency response to each recommendation.

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

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

## Follow-Up Investigation

The 2014-2015 Grand Jury reviewed the 2013-2014 Grand Jury Final Report, agency responses, agendas, minutes, and video recordings (where available) to determine that the agencies implemented the 2013-2014 Grand Jury recommendation.

### Findings, Recommendation, and Agency Responses

#### 1.0 Stockton City Council Members Do Not Agree With Their Own Responses

**2013-2014 Finding 1.1:** “A majority of Stockton City Council Members stated that they disagreed with official responses they had previously approved on August 13, 2013, which raises concerns of whether members read the report and responses.”

***Agency Response:** “The respondent partially agrees and partially disagrees with this finding. Without understanding the detail of the disagreement it is impossible to respond to the finding. There is no data provided to help determine what portions of the report were called into question and if it was a minor detail or a major policy implication. Five reports were submitted to the City by the Grand Jury in 2012-2013. These reports contained a total of 40 findings and 33 recommendations. This led to a lengthy staff report with multiple attachments and complex responses, particularly to a report that outlined the City’s financial status (Case No. 0112 – Recovering from Stockton’s Financial Sinkhole – Don’t fall back in). The complexity of reviewing various reports may have led to confusion on the part of Council to address any issues regarding opposition to the responses.”*

**2013-2014 Finding 1.2:** “A majority of Stockton City Council Members stated that they disagreed with official responses they had previously approved on August 13, 2013, which raises concerns about why they did not question the responses at the public Council Meeting when their responses were approved.”

***Agency Response:** “The respondent partially agrees and partially disagrees with this finding. Although, the City encourages dialogue and discussion, without understanding the detail of the disagreement it is impossible to respond to the finding.”*

## **2.0 How Responses to Grand Jury Reports are Approved**

### **Board of Supervisors**

**2013-2014 Finding 2.1:** “Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public.”

***Agency Response:** “Partially disagree. Each of the three responses from the County Board of Supervisors over the past four years was, in fact, approved by unanimous vote (no Board response was required in 2011). However, in both 2010 and 2013, Board members removed items from the consent agenda in order to ask questions of staff before ultimately voting to approve responses. For example, in 2010, dialogue was held regarding the issue of voting by mail, and in 2013, several questions were posed regarding surplus assets, group homes, and crime impacts. In fact, the Board directed staff to modify language in the proposed response in order to clarify its priorities on criminal justice.”*

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

***Agency Response:** “The recommendation will not be implemented. County staff are the subject matter experts upon whom the Board relies to implement programs, manage resources, and facilitate day-to-day operations, all within the Board’s general policy guidance. As such, staff is in the best position to draft responses, which are sometimes technical in nature, to Grand Jury reports for Board consideration. It is wrong to assume that just because there are no questions or discussion about an item, that Board members have not reviewed the material or do not understand the issue. Hopefully, it is just the opposite, and the absence of discussion is the product of proposed responses that are clear and concise, and that are representative of the Board’s policies. Ultimately, regardless of whether items are placed on the consent agenda or scheduled for discussion, both Board members and the general public have an opportunity to ask questions and comment or express concerns about an item prior to a vote being taken. Therefore, it is unnecessary to have the Board reiterate separately its concurrence with proposed responses prepared by County staff.”*

**The 2014-2015 Grand Jury reviewed the August 26, 2014 agenda, minutes, and video recording of the Board of Supervisor’s Meeting. The agency’s response was listed as item #19 of the Consent - General Government portion of the agenda. This consent item was approved with no discussion. No further action is required.**

## City of Escalon

**2013-2014 Finding 2.1:** “Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public.”

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

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

**Agency Response:** *“The City agrees with the recommendation. The agenda item will be placed under Administrative Matters to allow for discussion prior to voting.”*

The 2014-2015 Grand Jury reviewed the July 21, 2014 agenda and minutes of the City Council Meeting. The agency’s response was listed as item #7 of the “Administrative Matters” portion of the agenda. This item was approved by unanimous vote. No further action is required.

## City of Lathrop

**2013-2014 Finding 2.1:** “Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public.”

**Agency Response:** *“Council disagrees with this finding as it pertains to the City of Lathrop. Grand Jury responses are prepared by the City Attorney’s office and presented to Council in open session and voted on at its regularly scheduled public council meetings after what is deemed by Council as sufficient discussion. Nonetheless, in order to encourage public discussion, City Staff plans to list future Grand Jury Reports in the “Scheduled” portion of the agenda instead of the “Consent” portion of the agenda. Council requests Grand Jury replies to this and Council’s future responses. Council would like those replies to contain an evaluation of City’s responses including a statement by the Grand Jury explaining whether it agrees with the City’s response.”*

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

**Agency Response:** *“The recommendation has been implemented as follows: City Council has requested the listing of future Grand Jury Reports in the “Scheduled” portion of Council’s agenda instead of the “Consent” portion of the agenda. Council seeks Grand Jury replies to this and Council’s future responses. Council would like those Grand Jury replies to contain an evaluation of the City’s response including a statement by the Grand Jury explaining whether it agrees with the City’s response.”*

The 2014-2015 Grand Jury reviewed the August 4, 2014 agenda, minutes and video recording of the City Council Meeting. The agency's response was listed as item #5.7 on the agenda. This item was approved by unanimous vote after a presentation by the City Attorney and a question and answer period. Council Members commented on the matter. No further action is required.

### City of Lodi

**2013-2014 Finding 2.1:** "Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public."

*Agency Response:* "Lodi agrees with this finding in part and disagrees in part. Lodi agrees that the majority of its responses were approved unanimously. Lodi further agrees that there was little literal discussion about the approvals. However, focusing exclusively on literal discussion misapprehends the majority of the legislative process. Legislatures speak through majority assent towards a proposition. That proposition must necessarily be in written form. Each of Lodi's responses over the four-year period were fully reasoned and explained in staff reports and draft responses. Council, following review and consideration, adopted each of those reasoned responses."

**2013-2014 Recommendation 2.1:** "All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response."

*Agency Response:* "The City already implements this recommendation. The reasoning behind the response is fully detailed in the staff report to Council and letter responding to the Grand Jury. Both are published as part of the City's agenda in advance of the Council meeting and, following Council review and consideration, adopted by the Council."

The 2014-2015 Grand Jury reviewed the December 3, 2014 agenda and minutes of the City Council Meeting. The agency's response was listed as item C-5 of the Consent Calendar portion of the agenda. This item was approved by unanimous vote. No further action is required.

### City of Manteca

**2013-2014 Finding 2.1:** "Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public."

*Agency Response:* "Over the last four years, the Manteca City Council has been asked to provide responses to three Grand Jury reports. On two of those occasions, the draft responses were placed on the Consent Calendar. Both times, the items were requested to be pulled by individual Council members for additional questions/comments. The responses were then approved by the Council. On the third occasion, the draft response was placed elsewhere on the Council agenda for discussion. On that occasion, the City Manager introduced the item, and the Mayor asked the other Council members if they had questions or comments on the item. With no additional questions or comments by the Council, the response was approved."

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

**Agency Response:** *“The City Council disagrees with making this a requirement of the legislative body. As demonstrated in past Council meetings where draft responses were presented, individual City Council members have asked questions or commented on the draft responses that were presented. Any member of the City Council or the public can speak to any item on the Council agenda, including questioning the draft response, seeking clarification about the draft response, or expressing opposition to the prepared draft response. Items presented at City Council meetings are done so under the “deliberative privilege” process – the Council members can elect to deliberate/discuss the items or they can elect not to comment further.”*

**The 2014-2015 Grand Jury reviewed the July 15, 2014 agenda and minutes of the City Council Meeting. The agency’s response was listed as Section E - Mayor and Council portion of the agenda. This item was approved by unanimous vote. No further action is required.**

## **City of Ripon**

**2013-2014 Finding 2.1:** “Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public.”

**Agency Response:** *“After review of the City Council of the City of Ripon’s process for reviewing and approving responses to Grand Jury Reports, the City disagrees with the Grand Jury’s categorical finding that because “little or no discussion by the elected officials or the public” of its Grand Jury responses occurs at City Council meetings, the elected officials “accept whatever their staff propose”. While this may be the case in other municipalities, it has not historically been true in Ripon. Because of varying complexity of the issues presented in Grand Jury Reports, and due to City staff’s in-depth knowledge of City matters, City staff first reviews Grand Jury Reports and prepares draft responses with supporting materials for review by the City Council. Additionally, the City Attorney’s Office reviews the reports and draft responses for any legal or policy issues that should be addressed. The report, draft responses and supporting materials are then distributed to the City Council in advance for their review, in sufficient time to provide them with ample opportunity to prepare any questions or suggested modifications. During the review period, City staff works cooperatively with the City Council in providing any answers to questions raised by individual Council Members. Because of this preliminary review process, where the City Council is provided with the information for review in advance, the responses are placed on the consent calendar, where an opportunity for discussion is provided to both the Council and the public. If no modifications are required, the responses are approved. If any Councilmember, or any member of the public wishes to pull the proposed responses from the consent calendar for discussion, they are given the opportunity to do so at the City Council meeting.”*

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

**Agency Response:** *“The City shall address all future Grand Jury Reports and potential responses in the*

*following manner. First, the City Council will agendaize the Grand Jury Report and the City's potential response as a discussion item at a Council meeting. This will provide both the City Council and the public with an opportunity to review and discuss the Report and weigh in on the City's potential response. Direction will be given to staff at the initial meeting so staff can prepare a final draft response for consideration at a subsequent meeting. Next, the City Council will place the Report and final draft response as a consent item at a subsequent meeting. At the subsequent meeting, the City Council and the public will again have the opportunity to review and discuss the Report and the proposed response, if they desire to do so. In addition to the normal review and input process exercised by the City in responding to Grand Jury Reports, the City Council shall make every effort at the public meeting(s) where Grand Jury Reports and responses are agendaized to first state whether they wholly or partially agree or disagree with the draft responses and their reasoning behind their decision prior to voting on the responses."*

**The 2014-2015 Grand Jury reviewed the August 5, 2014 agenda and minutes of the City Council Meeting. The agency's response was listed as item #4-A of the Consent Calendar. This item was approved by unanimous vote. No further action is required.**

### **City of Tracy**

**2013-2014 Finding 2.1:** "Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public."

**Agency Response:** *"The City agrees that, over the last four years, its responses to Grand Jury Reports have been approved by unanimous votes. However, elected officials and the public have participated in some discussion regarding such responses. Over the last four years, the City of Tracy responded to two Grand Jury Reports. Both were approved with unanimous votes of the City Council. One report was approved on the consent calendar with no discussion. The other report was considered on the City Council's regular agenda and it was discussed by both the City Council and the public."*

**2013-2014 Recommendation 2.1:** "All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response."

**Agency Response:** *"This recommendation will be implemented. The City will place future responses to Grand Jury Reports on the City Council's regular agenda for discussion and consideration. In addition to a written staff report, staff will also provide a verbal report, so the City Council and public better understand the City's response."*

**The 2014-2015 Grand Jury reviewed the September 2, 2014 agenda, minutes and video recording of the City Council Meeting. The agency's response was listed as item #9 on the agenda. This item was approved by unanimous vote. No further action is required.**

## City of Stockton

**2013-2014 Finding 2.1:** “Over the last four years, almost all responses by the County and the Cities were approved by unanimous votes after little or no discussion by the elected officials or the public.”

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

**2013-2014 Recommendation 2.1:** “All legislative bodies publicly explain the reasons for its response to Grand Jury Findings and Recommendations prior to voting to approve their response.”

**Agency Response:** *“The respondent agrees with the recommendation. The Legislation Environmental Committee will develop a policy for Council approval on how future Grand Jury responses will be presented to Council to include follow-up briefings on the responses submitted to the Grand Jury. Until this policy is developed, Grand Jury Report Responses will be placed on New Business as separate items on the public City Council meeting agenda in order to allow for any needed discussion.”*

**The 2014-2015 Grand Jury reviewed the August 12, 2014 agenda, minutes and video recording of the City Council Meeting. The agency’s response was listed as item #15.2 – New Business on the agenda. This item was approved by unanimous vote. No further action is required.**

## Conclusion

The 2014-2015 Grand Jury determined that each agency responded pursuant to statute and in a timely manner to the findings and recommendation made by the 2013-2014 Grand Jury. Openness and transparency are essential to public trust and improving government functions. The Grand Jury appreciates the agencies’ 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 2012-2013 San Joaquin County Grand Jury Case No. 0112**



## **Recovering from Stockton's Financial Sinkhole – Don't Fall Back In**

### **Preface**

This report contains the methods the 2014-2015 Grand Jury used to determine if the City of Stockton responded to the 2012-2013 Grand Jury Report, "Recovering from Stockton's Financial Sinkhole – Don't Fall Back In." The 2013-2014 Grand Jury recommendations were meant to strengthen how the City of Stockton manages its financial resources.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the City's August 26, 2014 responses, are presented verbatim. 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>CAFR</b>         | Comprehensive Annual Financial Report; the annual report prepared by the City's external auditor and includes both financial information and general city fiscal and statistical information |
| <b>City Auditor</b> | The individual or firm appointed by the City Council to conduct internal audits of city operations and finances                                                                              |

|                         |                                                                                                                                                                          |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>City Council</b>     | Unless otherwise specified, includes the six elected council members and the mayor of the City of Stockton                                                               |
| <b>Council Member</b>   | Any one of the six elected members of the Stockton City Council; does not include the mayor                                                                              |
| <b>CSAC</b>             | California State Association of Counties; an association comprised of and representing the interest of counties in California                                            |
| <b>External Auditor</b> | The firm hired by the City Council to conduct an annual audit of the City's financial records and procedures                                                             |
| <b>Mayor</b>            | The separately elected mayor of the City of Stockton pursuant to the City Charter with limited and defined authority under the City's Council/Manager form of government |

## **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 Information Provided to the City Council**

**2013-2014 Finding 1:** "The Stockton City Council did not consider an inter-fund loan policy as stated in their response."

**Agency Response:** *"The respondent disagrees with this finding. The requirement of the City Manager to bring all proposed inter-fund loans before the Council for approval remains in place until a policy is developed. The inter-fund loan policy has not been developed as staff wanted the policy to reflect the recommendations that were pending with the Policy Project of the Internal Audit Plan, which would provide a revised template, outline and process for developing all City policies."*

**2013-2014 Recommendation 1:** "The Stockton City Council by October 31, 2014, adopt an inter-fund loan policy."

**Agency Response:** *"The respondent agrees in part with this recommendation. The City will adopt an inter-fund policy, but it may not be within the timeframe recommended. An inter-fund loan policy has not been developed to date. The requirement of the City Manager to bring all proposed inter-fund loans before the Council for approval remains in place until a policy is developed. The inter-fund loan policy*

*has not been developed as staff wanted the policy to reflect the recommendations that were pending with the Policy Project of the Internal Audit Plan, which would provide a revised template, outline and process for developing all City policies. The recommendations from the City Auditor for the Policy Project have been released. A comprehensive review of all Administrative Directives is being initiated through this project. The inter-fund loan policy will be developed within the schedule that is determined for the Policy Project. This schedule is currently being developed and consideration will be made for prioritizing the inter-fund loan policy."*

**The 2014-2015 Grand Jury received and reviewed the Draft Interfund Loan Policy SCP: 700-5 and the Draft Interfund Loan Procedure SCPR: 700-5. This Policy and Procedure is included in the City of Stockton Audit Findings Tracking Report and is to be approved as part of the City's Policy Project. No further action is required.**

## **2.0 Effectiveness of the City Auditor**

**2013-2014 Finding 2.1:** "The City of Stockton agreed to adopt a policy regarding the City Auditor but has not done so."

**Agency Response:** *"The respondent agrees with this finding. ..."*

**2013-2014 Finding 2.2:** "Since City Council Members have an interest in adopting a policy regarding the types of audits to be performed by the City Auditor, when they are to be conducted and under whose direction they are to be undertaken, the City Council should consider such a policy."

**Agency Response:** *"The respondent agrees in part with this finding. The City Council will adopt policy guidelines related to audits through adoption of the Audit Committee Charter. The Audit Committee Charter referenced above does include a general outline of the types of audits and reports that the Council Audit Committee is expected to receive from the City Auditor. In addition, there are other important details in the Audit Committee Charter that are designed to increase accountability and transparency in financial reports. However, it is overly prescriptive to determine by policy or ordinance the details of each specific audit required of the City Auditor and schedules for their completion."*

**2013-2014 Recommendation 2.1:** "The Stockton City Council by October 31, 2014, adopt a concise policy identifying the City Council's oversight obligation of the City Auditor, whether an individual or a firm, and the review process of the Auditor's findings and reports."

**Agency Response:** *"The respondent agrees in part with this recommendation. The City Council will adopt policy guidelines related to the City Auditor function through adoption of the Audit Committee Charter. As noted above, the adoption of the Audit Committee Charter was delayed in anticipation of the Policy Project and revision of all Council policies has high priority in the Policy Project review schedule. However, given the number of competing priorities at the City, the Audit Committee Charter may not be adopted by October 31, 2014. In addition, the City Council does not intend to adopt a distinct policy related to City Auditor oversight outside of the Audit Committee Charter. The draft Audit Committee Charter outlines the types of audits and reports that the Council Audit Committee is expected*

*to receive from the City Auditor, including a process for developing an annual Internal Audit Plan and the procedure for reporting out on the progress of that plan. The purpose of the annual audit plan is to provide direction from the Council Audit Committee to the City Auditor in conducting the appropriate audits and reports based upon the current needs of the City. In September 2013, the City Council adopted a two year Internal Audit Plan that does schedule an aggressive series of performance audits and internal controls projects to mitigate the highest priority risks and gaps for the City. Progress related to this plan has been regularly reported out to the Audit Committee and an Audit Findings Tracking Report has been developed to comprehensively track all audit findings and validate that they are addressed and closed. The Audit Committee Charter and the annual Internal Audit Plan process will continue to provide the direction and oversight of the Council to the City Auditor.”*

**The 2014-2015 Grand Jury received and reviewed the Draft City of Stockton Audit Committee Charter and Internal Audit Plan representing an implementation of the recommendations made in the risk assessment and internal control review conducted by Moss Adams, the CPA firm currently providing the regular functions of the City Auditor. No further action is required.**

**2013-2014 Recommendation 2.2:** “The Stockton City Council by October 31, 2014, adopt a policy clarifying the types of audits and reports the City Auditor is to perform, when the audits are to be conducted and under whose direction they are to be undertaken.”

*Agency Response: “The respondent agrees in part with this finding. The City Council will adopt policy guidelines related to audits through adoption of the Audit Committee Charter. The Audit Committee Charter referenced above does include a general outline of the types of audits and reports that the Council Audit Committee is expected to receive from the City Auditor. In addition, there are other important details in the Audit Committee Charter that are designed to increase accountability and transparency in financial reports. However, it is overly prescriptive to determine by policy or ordinance the details of each specific audit required of the City Auditor and schedules for their completion.”*

**The 2014-2015 Grand Jury determined that the City’s Internal Audit Plan focuses on risk mitigation and the development of internal controls, policies, and procedures. The Council Audit Committee Charter will be included in a comprehensive update of all Council Policies as part of the City’s Policy Project. The Audit Committee Charter includes: establishment of the Audit Committee, duration of appointments, role and authority, meeting requirements, responsibilities to include financial statements, internal control, internal and external audit, monitoring compliance with laws and regulations, and reporting responsibilities. No further action is required.**

### **3.0 Effectiveness of the City’s External Auditors**

**2013-2014 Finding 3.1:** “Since City Council Members have an interest in adopting a policy regarding the term of the external auditor, the City Council should adopt such a policy.”

*Agency Response: “The respondent agrees with the concept but disagrees with the finding that there must be a firm policy. The City finds this recommendation overly prescriptive and narrowly defining to the potential detriment of conducting City business. The City supports awarding external financial*

*contracts for terms that balance continuity with complacency. It is has been the practice of the City to limit the term of the external auditor to no more than five years, and to competitively bid these services at the end of each term. This is consistent with conventional practices of other municipalities. However, it is not a common practice to adopt policies governing the term of service of external auditors. It is overly prescriptive to establish a policy stipulating that all contracts for external audit services have a particular term, three year terms with a maximum of two one-year extensions. There may be unique circumstances or audits that merit different terms. City management plans to award future external financial audit contracts according to the terms outlined in this recommendation, but does not intend to create a policy stipulating this term for all external audit services. We need to balance price, learning curve costs, performance and other emerging factors. At some future date we may want to contract for auditing for less than 5 years."*

**2013-2014 Finding 3.2:** "Since City Council Members have an interest in having an independent third party review of the Letter to Management and the staff's response, the City Council should have such a review."

**Agency Response:** *"The respondent disagrees with the finding. Due to the City's recent financial crisis, the City has undergone an intensive process of audits and evaluation of policies, procedures and protocols. To this end, the addition of an independent third party review of the Letter to Management and the staff's response is not deemed financially responsible or necessary given the overall awareness to conduct City business in adherence to best management practices. The external financial reports for the City are provided to the Audit Committee and the City Council for their review and approval. In addition, all findings contained in the letter to management are tracked by the City Auditor and reported on to the Audit Committee on a quarterly basis."*

**2013-2014 Recommendation 3.1:** "The Stockton City Council by October 31, 2014, adopt a policy that stipulates all contracts for external audit services, including the preparation of the CAFR, be awarded for three year terms, with a maximum of two one-year extensions."

**Agency Response:** *"The respondent agrees with the concept but disagrees with the finding that there must be a firm policy. The City finds this recommendation overly prescriptive and narrowly defining to the potential detriment of conducting City business. The City supports awarding external financial contracts for terms that balance continuity with complacency. It is has been the practice of the City to limit the term of the external auditor to no more than five years, and to competitively bid these services at the end of each term. This is consistent with conventional practices of other municipalities. However, it is not a common practice to adopt policies governing the term of service of external auditors. It is overly prescriptive to establish a policy stipulating that all contracts for external audit services have a particular term, three year terms with a maximum of two one-year extensions. There may be unique circumstances or audits that merit different terms. City management plans to award future external financial audit contracts according to the terms outlined in this recommendation, but does not intend to create a policy stipulating this term for all external audit services. We need to balance price, learning curve costs, performance and other emerging factors. At some future date we may want to contract for auditing for less than 5 years."*

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

**2013-2014 Recommendation 3.2:** “The Stockton City Council by October 31, 2014, annually select a qualified individual or firm to provide an independent review of the external audit’s Letter to Management and staff’s response to include a report of findings to the City Council.”

*Agency Response:* “The respondent disagrees with the finding. Due to the City’s recent financial crisis, the City has undergone an intensive process of audits and evaluation of policies, procedures and protocols. To this end, the addition of an independent third party review of the Letter to Management and the staff’s response is not deemed financially responsible or necessary given the overall awareness to conduct City business in adherence to best management practices. In the future, the City’s Auditor will provide an update to the City Council biannually to provide transparency. These reports will be provided to the Audit Committee and the City Council and all findings contained in the letter to management are tracked by the City Auditor and reported on to the Audit Committee on a quarterly basis.”

**2014-2015 Finding:** The Grand Jury received and reviewed the agency’s response. No further action is required.

## **6.0 City Council Budget and Audit Committee**

**2013-2014 Finding 6.1:** “The full City Council received limited information from the Audit Committee during 2013.”

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

**2013-2014 Finding 6.2:** “Since City Council Members have an interest in reviewing the Council, the City Council should conduct such a review.”

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

**2013-2014 Recommendation 6.1.1:** “Minutes of each Audit Committee meeting be included within 45 days as a City Council agenda item.”

*Agency Response:* “The respondent agrees in part with this recommendation. The City finds this recommendation overly prescriptive. Although the City agrees and will adhere to submitting the Audit Committee minutes to City Council for review, it does not want to commit to a set timeline given the complexities of scheduling and to provide flexibility to the members of the committee and City staff.”

**2014-2015 Finding:** The Grand Jury received and reviewed the agency’s response. No further action is required.

**2013-2014 Recommendation 6.1.2:** “Major items discussed by the Audit Committee be included as an agenda item for full City Council discussion and/or action.”

**Agency Response:** *“The respondent agrees in part with this recommendation. The Audit Committee is made up of Council members. The Audit Committee is best suited to make the determination regarding which items should be forwarded for presentation to City Council. In the past 18 months, the Audit Committee and City staff have forwarded several issues to the City Council for approval including the City Auditor contract, the Internal Audit Plan, and adoption of the City’s Comprehensive Annual Financial Report (CAFR).”*

**2014-2015 Finding:** The Grand Jury received and reviewed the agency’s response. No further action is required.

**2013-2014 Recommendation 6.2:** “The Stockton City Council by December 31, 2014, review and amend as necessary the stated purpose of all Standing Committees established in Council Policy 100-4 and provide clear specifications of the committees’ scope of activity, particularly minimum effective oversight responsibilities.”

**Agency Response:** *“The respondent agrees in part with the recommendation. As noted above, the City’s original response to the 2012-13 Grand Jury report made a commitment to review and revise the scope and responsibilities of the Audit Committee, but did not commit to a review of all Council Committees comprehensively. Since that time, capacity has been created within the Policy Project of the Internal Audit Plan to review all Council Policies, including policy statements related to Council Committees. The City Auditor, Moss Adams, will be conducting this review in the fall of 2014 and present their recommended revisions to the Audit Committee. However, the City cannot commit that the completed policies will be adopted by December 31.”*

**2014-2015 Finding:** The Grand Jury confirmed under item number 107 of the Audit Findings Tracking Report that a comprehensive review of all Council Policies and Administrative Directives is being initiated through the City’s Policy Project. No further action is required.

## **7.0 Financial Training for City Council Members**

**2013-2014 Finding 7.1:** “Since City Council Members have an interest in the City requesting the League of California Cities to establish a training program, the City should make such a request.”

**Agency Response:** *“The respondent agrees with the finding.”*

**2013-2014 Finding 7.2:** “Since City Council Members have an interest in the City developing a workshop on general municipal finance for newly elected officials, the City should develop such a workshop.”

**Agency Response:** *“The respondent agrees in part with the finding. The City Manager and the CFO work with the Council members to ensure they understand the financial matters of the City. This is not conducted in a one-time workshop for new Council members but on an on-going basis as necessary.”*

**2013-2014 Recommendation 7.1:** “The City of Stockton by September 30, 2014, submit a request to the League of California Cities Board of Directors to establish training programs for local elected

officials to learn about the various aspects of municipal finance similar to the depth and content of the California State Association of Counties (CSAC) courses.”

**Agency Response:** *“The respondent agrees with this recommendation. ...”*

**2014-2015 Finding:** The Grand Jury received and reviewed the agency’s response. No further action is required.

**2013-2014 Recommendation 7.2:** “The City of Stockton by November 1, 2014, develop with the assistance from educational institutions a workshop for elected officials on municipal finance operations, structure, responsibilities and oversight drawing upon best practices developed by other cities and professional organizations. The workshop will be available beginning with the members of the City Council as elected in November 2014.”

**Agency Response:** *“The respondent agrees in part with this recommendation. The City will request that the League of California Cities provide educational opportunities to elected officials regarding municipal finance operations, structure, responsibilities and oversight. The request will be submitted prior to November 1, 2014.”*

**2014-2015 Finding:** The Grand Jury received and reviewed the agency’s response. No further action is required.

## Conclusion

The 2014-2015 Grand Jury determined that the City of Stockton 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 2012-2013 San Joaquin County Grand Jury Case No. 0312**



## **Getting Rid of Stuff – Improving Disposal of City and County Surplus Public Assets**

### **Preface**

This report contains the methods the 2013-2014 Grand Jury used to determine if the Lathrop City Council responded to the 2012-2013 Grand Jury Report, “Getting Rid of Stuff – Improving Disposal of City and County Surplus Public Assets.” The 2013-2014 Grand Jury recommendations were meant to strengthen the City of Lathrop’s process for managing its disposal of surplus public assets.

The 2013-2014 Grand Jury Finding and Recommendations, as well as the City’s December 2, 2014 responses, are presented verbatim. The 2014-2015 Grand Jury follow-up results are presented after the City’s response to the recommendations.

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)

### **Follow-Up Investigation**

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

## Finding, Recommendations, Agency Responses and Follow-Up Results

**2013-2014 Finding 1:** “The City of Lathrop’s policy on disposition of surplus property as established by Resolution 02-1231, Exhibit A is contradictory as it states that it does not apply to real property and then states that disposal of real property must follow state law.”

**Agency Response:** “Respondent disagrees with the finding. The Policy adopted by Resolution 02-1231 does not contradict because it is true that said Policy does not apply to the disposition of real property and its statement that such dispositions must follow state law is simply a statement of fact. Nevertheless, Council amended said Policy with the modifications recommended by the Grand Jury on December 1, 2014 as follows:

“AMENDED (DECEMBER 1, 2014) CITY OF LATHROP POLICY REGARDING DISPOSITION OF SURPLUS PERSONAL PROPERTY”

...  
“1. This policy applies only to personal property and shall not apply to real property, including but not limited to fee title, leases of more than one-year duration, and/or rights of way owned or acquired by the City of Lathrop now or in the future. ~~Disposition of real property shall occur as required by state law.~~”

...

**2013-2014 Recommendation 1.1:** “It is recommended that before October 1, 2014, the Lathrop City Council amend their existing policy on the disposal of surplus property so that it clearly states whether it applies to surplus land and buildings.”

**Agency Response:** “The Policy adopted by Resolution 02-1231 does not contradict because it is true that said Policy does not apply to the disposition of real property and its statement that such dispositions must follow state law is simply a statement of fact. Nevertheless, Council amended said Policy with the modifications recommended by the Grand Jury at the December 1, 2014 Council Meeting in open session as follows:

“AMENDED (DECEMBER 1, 2014) CITY OF LATHROP POLICY REGARDING DISPOSITION OF SURPLUS PERSONAL PROPERTY”

...  
“1. This policy applies only to personal property and shall not apply to real property, including but not limited to fee title, leases of more than one-year duration, and/or rights of way owned or acquired by the City of Lathrop now or in the future. ~~Disposition of real property shall occur as required by state law.~~

...  
“(Please see attached Resolution No. 14-3848).”

**The 2014-2015 Grand Jury received and reviewed the City’s response, adopted Resolution No. 14-3848, and the Amended (December 1, 2014) City of Lathrop Policy Regarding Disposition of Surplus Personal Property. No further action is required.**

**2013-2014 Recommendation 1.2:** “It is recommended that before October 1, 2014, the Lathrop City Council adopt a policy for disposition of surplus land and buildings to include: when appraisals are to be conducted, required compliance with Government Code Section 54220 *et seq.* and a prior public disclosure of the proposed sale.”

**Agency Response:** *“The City does not consider it necessary to adopt a new policy just to state it will comply with state law since it does not routinely adopt policies stating it will follow existing law. Nevertheless, Council adopted a new policy for disposition of surplus real property at the December 1, 2014 Council Meeting in open session.  
“(See Attached Resolution No. 14-3849).”*

**The 2014-2015 Grand Jury received and reviewed the City’s response, adopted Resolution No. 14-3849, and the City of Lathrop Policy Regarding Disposition of City-Owned Real Property. No further action is required.**

## **Conclusion**

The 2014-2015 Grand Jury determined that the Lathrop City Council responded pursuant to statute and in a timely manner to the finding 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**

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# **Follow-Up Report to the 2012-2013 San Joaquin County Grand Jury Case No. 0912**



## **Crime-Budget Cuts + AB109 = Safe Communities**

### **Preface**

This report contains the methods the 2013-2014 Grand Jury used to determine if the City of Stockton responded to the 2012-2013 Grand Jury Report, "Crime-Budget Cuts + AB 109 = Safe Communities". The 2013-2014 Grand Jury recommendation was meant to increase the efficiency in county-wide law enforcement.

The 2013-2014 Grand Jury Finding and Recommendation, as well as the City's August 26, 2014 response, are presented verbatim in this report. The 2014-2015 Grand Jury follow-up results are presented after the City's response to the 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)

### **Follow-Up Investigation**

The 2014-2015 Grand Jury reviewed the 2013-2014 Grand Jury Final Report, City responses, and interviewed City of Stockton staff to determine that the City implemented the 2013-2014 Grand Jury recommendation.

## **Finding, Recommendation, Agency Responses and Follow-Up Results**

**2013-2014 Finding 1:** The Stockton Police Department has maintained an aggressive recruitment program but has not been able to significantly increase its staffing due to the number of officers leaving the department.

**Agency Response:** *"The respondent agrees with this finding."*

**2013-2014 Recommendation 1:** The Stockton City Council review and implement retention strategies for police officers before December 31, 2014.

**Agency Response:** *"The respondent agrees in part with this recommendation. The City agrees that a significant hurdle to reducing crime is the retention of qualified police officers. The Police Department is actively engaged in researching potential retention strategies. These strategies have been reviewed with the City Council and the Police Department has employed those efforts that are best suited to our situation. These strategies are being measured for their effectiveness and new strategies are being developed and considered."*

The 2014-2015 Grand Jury determined that the City of Stockton is actively researching potential retention strategies. A few of the immediate recruitment strategies now being implemented include providing an online interest application for upcoming testing, offering orientations and practicing physical agility courses, engaging applicants more regularly throughout the hiring process, forming community partnerships, recruiting nationally, and including more special assignment opportunities (i.e. Neighborhood Blitz, more Field Training Officers, Academy Recruitment Training Officer, and other recruiting positions, as well as some Ceasefire related positions.) There has been a better working relationship between labor unions and the City and open communication continues and is encouraged. The City also offers employee appreciation special events and awards, an overall wellness program, and the Chief is meeting with all staff considering leaving. Long-term strategies include a storefront recruiting station, expanding volunteer programs to mentor and prepare individuals, Sentinel and Junior, and targeting local schools. No further action is required.

## **Conclusion**

The 2014-2015 Grand Jury determined that the City of Stockton responded pursuant to statute and in a timely manner to the finding and recommendation 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 2012-2013 San Joaquin County Grand Jury Case No. 1112**



## **District Board Ignores the Peoples' Right to be Informed**

### **Preface**

This report contains the methods the 2013-2014 Grand Jury used to determine if the San Joaquin County's Mosquito and Vector Control District responded to the 2012-2013 Grand Jury Report, "District Board Ignores the Peoples' Right to be Informed." The 2013-2014 Grand Jury recommendations were meant to strengthen the Board of Trustees accounting practices and transparency.

The 2013-2014 Grand Jury Findings and Recommendations, as well as the District's May 8, 2015 responses, are presented verbatim. The 2014-2015 Grand Jury follow-up results are presented after the District's response to the recommendations.

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)

### **Follow-Up Investigation**

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

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

**2013-2014 Finding 1:** “Consideration of a “Fund Balance Policy” has not been an agenda item for the trustees.”

*Agency Response:* “The District agrees that this is a correct statement of fact.”

**2013-2014 Finding 2:** “The District did not include the 2012-2013 audited financial reports on their website as they stated they would.”

*Agency Response:* “The District disagrees that this is a correct statement of fact.”

**2013-2014 Recommendation 1:** “Prior to October 1, 2014, the District adopt a Fund Balance Policy.”

*Agency Response:* “The initial recommendation of the Grand Jury was that an explanation of the District reserve fund and its purposes be included as part of the District budget. The current custom and practice of the District is to provide information regarding the funds as part of the budget resolution. That information combined with the notes to the yearly audit do provide detailed information regarding the various funds including the reserve funds. I have attached a copy of the budget resolution, Resolution 14/15-1 and a copy of pages 17 through 21 of the financial statements. The Board believes that this meets the recommendations of the 2012-2013 Grand Jury report. At the time the District was considering adopting a standalone policy for reserve funds and was working with its outside auditor to create such a policy. However, the auditor retired. The position of auditor went out to bid and a new contract was obtained. Due to the interruption, consideration of a fund balance policy was not completed. The Board feels that between the annual budget resolution and the financial statements, a full explanation of the funds purposes and use is available. However, this practice is not contained in a separate stand-alone policy document. Staff will continue this effort with the District’s outside auditor to create and include a fund balance policy that sets forth the District’s current practice of the types of funds allowable and the purposes of any restrictions on those funds.”

**The 2014-2015 Grand Jury received and reviewed Resolution 14/15-1, San Joaquin County Mosquito and Vector Control District Approving the Fiscal Year 2014-15 Budget and Related Fund Designations and Balances, as well as the Notes to Financial Statements dated June 30, 2014. No further action is required.**

**2013-2014 Recommendation 2:** “Prior to October 1, 2014, the District add the Fiscal Year 2012-2013 audited financial reports to its website.”

*Agency Response:* “The District did add a Fiscal year 2012-2013 audited financial report to its website and did so in July of 2014. It was placed in the category of Board Information. On review Management determined that it should be more prominently placed. The audited financial report is now

*available under a "Quick Links" heading available on the website. The Board believes that this provides the public with easy access to the audit and meets the recommendation of the Grand Jury."*

**The 2014-2015 Grand Jury determined that the audited financial reports for the San Joaquin County Mosquito & Vector Control District are located at [sjmosquito.org](http://sjmosquito.org), which is the District's website. No further action is required.**

### **Conclusion**

The 2014-2015 Grand Jury determined that the Board of Trustees of the San Joaquin County Mosquito and Vector Control District 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).



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and Presentations*

## **TOURS**

9/12/2014 Older Adult Services and County Mental Health Services  
9/17/2014 Bus Tour of South Stockton  
9/18/2014 Stockton Unified School District Police Department  
10/8/2014 San Joaquin County Jail and Honor Farm  
10/22/2014 Deuel Vocational Institute Prison and Dairy Farm  
11/3/2014 Stockton Municipal Utilities District (MUD) Delta Water Treatment Plant and the Intake Pump Station  
11/10/2014 MUD Regional Wastewater Control Facility  
1/28/2015 Chaderjian and O.H. Close Youth Correctional Facilities  
2/18/2015 Port of Stockton  
2/25/2015 California Healthcare Facility  
3/25/2015 San Joaquin County Juvenile Detention Center  
5/6/2015 San Joaquin County Office of Education  
6/2/2015 Holding Cells at Manteca and Lodi; Juvenile Court Staging Area

## **PRESENTATIONS**

8/27/2014 James Glaser, executive officer, San Joaquin County LAFCo  
9/3/2014 Steve Moore, sheriff, San Joaquin County  
9/10/2014 Vic Singh, behavioral health director, San Joaquin Behavioral Health  
11/5/2014 Eric Jones, police chief, Stockton Police Department  
12/17/2014 John Solis, executive director, San Joaquin County WorkNet  
1/14/2015 Sally Wooden, director of marketing, Goodwill Industries of San Joaquin Valley Inc.

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# *Grand Jury Process & Organization*

## **About the Grand Jury**

The San Joaquin County Civil Grand Jury's duty is to address citizens' concerns regarding the operation of local government entities.

The Civil Grand Jury is comprised of 19 citizens who are impaneled annually for a one-year term. The Grand Jury has a separate and different function than that of a trial jury and does not hear cases in a courtroom. Instead, grand jurors examine and investigate local governmental activities within San Joaquin County.

The responsibilities of the civil Grand Jury encompass the examination of all aspects of county government, including school and special assessment districts, to ensure that the county is being governed lawfully, efficiently and that public monies are being handled appropriately. The Grand Jury may conduct investigations of public agencies and the administration and affairs of any city within the county.

The Grand Jury is authorized by law to:

- Inquire into the condition and management of public prisons within the county;
- Investigate and report on the operations, accounts and records of city and county offices, departments and their functions;
- Inquire into the allegations of willful or corrupt misconduct of public officials;
- Investigate into the activities of all school and special assessment districts within the county;
- Submit a final report of its findings and recommendations to the Presiding Judge of the Superior Court.

## **How the Grand Jury is Organized**

The Presiding Judge of the Superior Court empanels 19 Grand Jurors to serve for one year, fulfilling the duties as outlined under state law. The judge appoints a foreperson who presides over the grand jury. The grand jury elects other officers and organizes itself. The jurors meet in a weekly general session. Smaller investigative committees meet throughout the week.

In addition, jurors meet with county and city officials, visit county detention facilities, and conduct independent reviews on matters of interest or concern. Each of the working committees report to the full Grand Jury. Conclusions are reached after study and thorough discussion of the issues and they may appear as part of the grand jury's final report.

## **Desirable Attributes of a Grand Juror**

Grand Jury service is a volunteer position with modest monthly compensation for meetings and round trip mileage. Members receive a wealth of experience and provide a vital service to the citizens of their community.

- Good health
- Open-mindedness
- Knowledge of and interest in local government and community affairs
- Skill in working productively with others in a group setting where respect and patience are essential
- Skill and experience in fact-finding, investigative techniques and report writing

## **Benefits of Being a Grand Juror**

The benefits of being a grand juror are many:

- You will enjoy the satisfaction and pride of doing an important job.
- There is the experience of being a member of a respected panel.
- You will become part of a body of people with the unique authority to see local government workings not available to most county citizens.
- As a grand juror, you have an opportunity to make a difference for your community.

## **Qualifications**

To be considered for nomination, you must meet the following legal requirements:

- Be a U.S. citizen;
- Be at least 18 years old;
- Be a resident of San Joaquin County for at least one year immediately prior to the beginning of your service;
- Possess intelligence, sound judgment and good character;
- Have sufficient knowledge of English language to communicate orally and in writing;

You cannot be considered for selection:

- If you are serving as a trial juror in any court in the State of California;
- If you have been discharged as a Grand Juror in any California court within the previous year;
- If you have been convicted of malfeasance in office or any other high crime;
- If you are serving as an elected public office

## **Citizen Complaints**

The Grand Jury receives complaints regarding all levels of local government. They may include, but are not limited to, allegations of misconduct by public officials or employees and inefficiencies in local government. Any citizen may submit a complaint by completing a Complaint Form.

Complaints are treated as confidential. This allows a complainant to come forward without intimidation. Generally, the Grand Jury provides to the complainant written acknowledgement of receipt of a complaint. However, with so many possible investigations, it is necessary for the Grand Jury to make hard decisions about what investigations to undertake during their term.

The complaint form should be submitted only after all attempts to correct an issue have been explored.

The Civil Grand Jury complaint form can be found at

<http://www.sjcourts.org/sites/default/files/pdfs/grandjury/CompForm.pdf>

Send your completed form to:

San Joaquin County Superior Court

Attn: Trisa Martinez, Judicial Secretary

222 E. Weber Avenue, Room 303

P. O. Box 201022, Stockton, CA 95201

Forms also can be obtained by visiting or writing to the address above. The Grand Jury does not accept complaints via e-mail.

## **To Learn More ...**

For more information about the San Joaquin County Civil Grand Jury visit:

<http://sjcourts.org/general-info/civil-grand-jury>