

SAN JOAQUIN COUNTY GRAND JURY



FINAL REPORT 2013-2014

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



San Joaquin County

2013 - 2014



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Introduction



The Superior Court

222 E. WEBER AVENUE, ROOM 303
STOCKTON, CALIFORNIA 95202

Hon. George J. Abdallah
Judge of the Superior Court

TELEPHONE
(209) 468-2827

June 6, 2014

The Superior Court of California, County of San Joaquin thanks and commends the 2013-2014 Civil 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 Civil 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 2013-2014 San Joaquin County Civil Grand Jury now takes its place in a long history of citizen involvement in civic life which was born in the English Common Law of 1166, adopted during the American Colonial period and codified in California in the 1880's. The 2013-2014 Civil Grand Jurors' thoughtful and constructive recommendations will help ensure the highest quality civic life to which all citizens are entitled.

As the Judge Advisor and Supervisor, it has been my privilege to review the work of the 2013-2014 Civil Grand Jury. The Grand Jurors also received well considered advice from their highly experienced Advisors, County Counsel Mr. David Wooten and Chief Deputy District Attorney Mr. Scott Fichtner and the invaluable assistance of the 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 Civil 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 has and will continue to better the civic life of all San Joaquin County residents. To each member of the 2013-2014 San Joaquin County Civil Grand Jury, for your many accomplishments the Superior Court extends its gratitude and congratulations.

A handwritten signature in dark ink, reading "George Abdallah". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

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



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

June 9, 2014

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 pleased to present you and the citizens of San Joaquin County the Final Report for 2013-2014.

This report details the activities of the 2013-2014 Grand Jury including the results of each investigation along with the associated findings and recommendations. Nineteen dedicated citizens spent hundreds of hours conducting interviews, researching documents and meeting with people at all levels of many branches of government as well as members of the public.

The Grand Jury is given the task of inquiring, investigating and possibly writing a report on any aspect of city and county government including school and special districts within San Joaquin County. Our purpose was to evaluate efficiency, honesty, fairness and dedication to serving the public and individual citizens and make recommendations for positive change. The Grand Jury hopes that the insights gained from the reports will be used by all public agencies to review and improve their operations.

Specifically, the 2013-2014 Civil Grand Jury investigated citizen complaints and other issues it considered to be of importance to the proper functioning of government. We received 25 complaints and met with more than 100 witnesses during the course of our investigations. Not all complaints were investigated, as some were not within the jurisdiction of the Grand Jury. We also personally inspected all mandated detention facilities in the County.

On behalf of the entire Grand Jury, we thank all the people throughout the County who cooperated with our investigations and provided much of the information provided in this report. Much appreciation goes to you, Judge Abdallah, for your support and guidance throughout our term. Special thanks also goes to our legal

advisors, Chief Deputy District Attorney, Scott Fichtner, and San Joaquin County Counsel, David Wooten, for their prompt response and counsel on concerns brought before the Grand Jury. Very special thanks to Trisa Martinez, Staff Judicial Secretary, for her endless knowledge, experience, patience and tireless support.

I am truly grateful to the members of the Grand Jury for their hard work during the 2013-2014 term. Each volunteered to serve because of their interests in county government, their strong commitment to safeguarding the interests of the citizens and making the lives of the people of San Joaquin County better. Their dedication, cooperative effort and willingness to donate long hours to this effort is commendable. It has been an honor and a privilege to work with them.

Lastly, I am humbled and thankful to have been afforded the opportunity to serve as Foreperson for this year's Civil Grand Jury.

Respectfully submitted,



Denise Mathews, Foreperson
2013-2014 San Joaquin County Civil Grand Jury

2013 - 2014 Grand Jury Roster

Executive Committee

Denise Mathews, Foreperson	Manteca	Retired - Administrator
Larry Graser, Vice Foreperson	Stockton	Retired - Educator
John Bayley, Secretary	Stockton	Retired - USAF
Faye Gibbs, Sgt.-at-Arms	Ripon	Retired - Finance
Carla Cole	Lodi	Retired - Law Enforcement
Ward Downs	Stockton	Retired - Educator
Fred Gowan	Tracy	Retired - US Army
Linda Heisig	Stockton	Retired - Business Owner
Neil Holets	Tracy	Retired - Lockheed Martin/Analyst
Nell Lip	Stockton	Retired - Registered Nurse
Pamela Mallett-Jones	Stockton	Retired - Educator
John Nowak	Manteca	Retired - Local Gov. Management
Trudy Reed	Stockton	Retired - CPA
Debra Rock	Lathrop	Security Specialist LLNL
Eli Tapia	Morada	Retired - Correctional Mental Health
Leo Van Grieken	Manteca	Supply Systems Analyst, D.O.D.
Roslyn Watkins	Lathrop	Retired - Law Enforcement
Stanley Wells	Stockton	Retired - Calif. Youth Authority
Rick Williams	Lodi	Retired - Law Enforcement

2013-2014 SAN JOAQUIN COUNTY GRAND JURY



Bottom row (left to right): Roslyn Watkins, Trudy Reed, Debbie Rock, Pam Mallett-Jones, Denise Mathews, Fred Gowan, Elia Tapia, Jr.

Second row (left to right): Nell Lip, Linda Heisig, Faye Gibbs, Carla Cole, Ward Downs, Stanley Wells

Back row (left to right): John Nowak, Leo Van Grieken, Neil Holets, Larry Graser, Rick Williams, John Bayley

2013 - 2014 Grand Jury Lessons Learned, Experiences, Suggestions, Thoughts and Observations

As the 2013-2014 year comes to a close, we offer to you the lessons learned, the experiences we will never forget, suggestions that may help you through your year and our thoughts of what it was like to be a San Joaquin County Grand Juror.

These quotes were random and anonymous, enjoy!

Why did you get involved with the Grand Jury?

"I was nominated."

"...Get to know how government really works."

"...Interested in what the grand jury did."

"I loved it so much the first two times, I came back for more."

"To do something about local government other than complain."

"To participate in a positive way to our community."

"My chance to give back."

"Great opportunity to utilize my prior work experience."

"Curiosity and an opportunity to serve."

In what way did you think you might contribute?

"...I had no idea."

"...Past experience."

"...Bring a fresh set of eyes to the processes in the county and provide a new perspective on how the common man sees and interprets the overall process of how government works."

"...I have a very inquisitive nature and am always seeking to gain knowledge."

"My desire to make this community a better place to live in and learn how our government works."

"My writing experience."

What aspects of the investigation process were interesting to you?

"The process of interviewing and getting the triangulation on information received from witnesses."

"Interviews."

"Developing questions, triangulating information and debriefing the interviews."

"Gathering facts and verification of such facts without jumping to a preconceived conclusion and keeping an open and analytical mind set related to the matter at hand."

"The tools allotted to grand jurors to get to the truth of a matter ... subpoena powers!"

"Learning to understand the differences among facts, findings and recommendations."

"The ability to interview the people involved."

What are your memories of the Ride Alongs?

"Realized the importance and dangers the officers and firefighters are exposed to on a daily basis."

"A new found respect for the men and women in uniform in our county."

"Witnessed an arrest of a subject for burglary."

"The officers and deputy's responsibilities. Their ability to make split second decisions when necessary."

"Getting to know the officers, their daily routine and the difficult job they do every day."

"Going 90+ mph up Highway 99."

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

"...Some weeks 20+ hours!"

"To serve on the Civil Grand Jury is always a high honor and when chosen to do so should be done with equal respect for all of your fellow jurors."

"Depending on the case load, time can be demanding."

"Be on time, have an open mind and give 100%."

"Having good writing and computer skills."

"Be accountable."

"It takes full dedication and commitment of time."

"...Sometimes it can get rocky, but if you keep the end result in mind (a good quality report) you will enjoy your experience."

"The time commitment is greater than initially indicated."

"Be a good listener and respect the views of your fellow grand juror."

"Expect to work hard, on a common cause with some interesting people."

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

"Start immediately, don't waste time. Time has a way of catching up with you!"

"Hit the ground running and take good notes."

"Start the report writing in January."

"Be concise and exacting."

"Hold committee chairs accountable for their committee."

"Have better computer skills."

"Time required to do a good job."

"I would have a new computer and know how to use it."

What are your best memories of the last year?

"The understanding of everyone's viewpoint and opinions."

"...Making new friends and learning that we are all from different backgrounds with different levels of experiences but most have the same ideals in mind, better government."

"Working in cooperation with people who have a great variety of experiences. Many have become friends."

"Meeting people from all walks of life."

"...The laughter!"

"Sucking it up when your report comes back from editorial with corrections."

"...The socialization."

“The ride alongs.”

“The commitment of 19 persons to protect the public’s interest.”

“The wonderful people I’ve met and places I’ve seen.”

Using only one word describe your experience on the Grand Jury.

“Informative”

“Knowledgeable”

“Edifying”

“Educational”

“Challenging”

“Interesting”

“Overwhelming”

“Rewarding”

“Worthwhile”

“Fulfilling”

Section II

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Investigations

San Joaquin County Grand Jury



SAN JOAQUIN COUNTY RECLAMATION DISTRICTS: *Limited Resources for a Big Task*

2013 - 2014 Case No. 0113

Summary

There are 53 reclamation districts in San Joaquin County established under the California Water Resources Code with responsibility for protecting low-lying land from water intrusion from local rivers and sloughs of the San Joaquin Delta. Varying in size from single property owners to large, partially urbanized areas the Districts work with limited financial resources and few employees. The 2013-2014 Grand Jury found that the Districts generally operate well, but many do not have the operational transparency and accountability that should be provided to property owners. Two areas of particular concern are lack of adopted budgets and lack of contracts for certain professional services. Both could easily be addressed with little added cost or effort. Also, the Local Agency Formation Commission (LAFCo) has not yet performed the required Municipal Services Review (MSR) for reclamation districts. Scheduled to be undertaken in Fiscal Year 2014-2015, the Grand Jury recommends the study include a look at Districts that have either ceased to exist in reality, or that might be better able to provide services through consolidation or shared activities.

Glossary

AB 1234	Assembly Bill 1234, adopted in 2005, added Sections 53234 through 53235.2 of the Government Code requiring local agency officials to take an ethics training course upon election or appointment and every two years during their term if they receive any compensation from the government entity
County	San Joaquin County
District	Reclamation District in San Joaquin County formed under the California Water Code
<i>et seq.</i>	To include that which follows
FPPC	California Fair Political Practices Commission
LAFCo	San Joaquin County Local Agency Formation Commission
MSR	Municipal Services Review, a service review of independent special districts and other entities
Special Districts	A unit of local government, separate from cities and counties, which provide public services such as fire protection, water supply, and reclamation
Trustee	Member of the Board of Trustees of a Reclamation District either by election or appointment

Background

Reclamation districts are created and operate under the California Water Code, Sections 5000 *et seq.* They are independent agencies authorized to levy and collect assessments on property within the district, issue bonds and receive funds from state and federal agencies. The districts are governed by either a three or five member Board of Trustees who must be residents of the district. While trustees are generally elected, they may be appointed by the County Board of Supervisors if an election is not held.

The districts are charged with protecting land from water intrusion through the construction and maintenance of levees, water pumps and other devices. The areas included in reclamation districts are below the water levels in surrounding rivers and the delta.

They must follow various federal and state laws and regulations, and they are supervised by both federal and state agencies. A number of federal and state programs providing funds for the construction and maintenance of levees require a reclamation district to be in existence to receive the funds.

Reason for Investigation

For many years the San Joaquin County Grand Juries have conducted investigations of the various special districts existing within the County. Reclamation districts have not been investigated by a grand jury in the past, yet they expend large amounts of public funds in the performance of their duties. The 2013-2014 Grand Jury decided to review the Reclamation Districts in San Joaquin County to determine if there were any issues related to the Districts' operations, efficiency and compliance with applicable laws.

Method of Investigation

The Grand Jury prepared a survey to obtain information from Reclamation Districts related to their:

- Organization
- Compliance with Fair Political Practices Commission (FPPC) and AB 1234 requirements
- Budgets
- Legal services
- Audit services
- Engineering services

Surveys were mailed to all 53 Districts in San Joaquin County. Five Districts did not respond.

Materials Reviewed

- Surveys returned from 47 Reclamation Districts
- California Water Code
- Reclamation Districts' operating budgets
- Reclamation Districts' annual audit reports
- Reclamation Districts' contracts for legal services
- Reclamation Districts' contracts for engineering services
- Audit firm manual for audits of special districts
- Responses from County Treasurer-Tax Collector
- Responses from County Auditor-Controller

Interviews Conducted

- Two attorneys representing Reclamation Districts

- Audit firm preparing Reclamation District annual financial audits
- LAFCo staff

Discussions, Findings and Recommendations

1.0 Contracting for Services

Most of the Districts in San Joaquin County are small. Few have full time staff to administer the activities of the Districts and contract for services. The predominant contracts are for legal services and engineering services. An annual "Letter of Engagement" is used to contract for required annual financial audit services. The investigation found no laws requiring Districts to have contracts for professional services. This reason was given by some Districts as to why they do not have some contracts.

While over a dozen legal firms provide services to the Districts, two firms combined represent 24 of the 48 Districts responding to the Grand Jury's survey. Both firms have represented Districts for decades. In addition to basic legal assistance, most of the legal firms also provide general administrative and finance administration support for the Districts. These include preparation and posting of the Board agendas; maintaining minutes of meetings; sending notices to property owners as needed; maintaining bookkeeping services for the Districts' warrants; mailing and collecting assessments; and preparing budgets and other financial documents. Using the legal firm's staff allows for a consolidation of services and also provides these services in a much more cost-effective manner than if the Districts attempted to contract for each service separately or employ the personnel that would be needed to cover all of the services.

Not all of the Districts have contracts with their legal firms. A common response was that contracts were not required for these types of services. While most Districts did have contracts, often they did not contain a listing or description of all of the services provided by the legal firm to the District. Testimony indicated that this lack of approved contracts may hinder a District when recovering funds from federal and state agencies after an emergency. An ounce of prevention may prevent a pound of problems later.

All Districts responded that they have contracts with engineering firms. Only three Districts did not list a private sector firm. Nine different firms were mentioned in the survey responses, with one firm serving 23 Districts and two other firms combined serving 11 Districts. The reasons for the limited number of firms were that Districts want engineers already familiar with the levee conditions in the County and that knowledge of how the various Districts' infrastructure is interconnected becomes very valuable when dealing with emergencies.

Findings

F 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.

F 1.2 Some Reclamation District contracts do not identify all of the services provided by the legal firm.

F 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.

Recommendations

R 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.

R 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.

R 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.

2.0 Financial Operations

Reclamation Districts operate with funding from assessments on property within the District, Federal and State grants, and bonds or loans approved by the District. All assessments are subject to Proposition 218 which requires a vote by the property owners benefiting from the activities paid by the assessment before it can be levied. For Fiscal Year 2012-2013 the assessments collected by Districts ranged from less than \$700 to over \$3.1 million. Most Districts use the services of the County Treasurer-Tax Collector to prepare and mail tax bills for collecting assessments, which is provided at no cost to the District. The County Auditor-Controller's Office provides assistance in calculating and processing the assessments for all except the largest Districts. The largest Districts

use private engineering firms to calculate the assessments on each parcel of land based on benefits received, as required by Proposition 218. The County Auditor-Controller also prepares warrants for all Districts with money in the County Treasury. A warrant request is submitted to the County with supporting documentation where the warrant is paid if sufficient funds are in the District's accounts. The Auditor-Controller Office charges Districts \$1.87 processing fee for preparation and issuance of each warrant, and a \$0.16 fee for redemption of each warrant.

District budgets vary from year to year impacted mostly by infrastructure work being performed. For Fiscal Year 2012-2013 District budgets ranged from \$3,500 to over \$65 million. Most budgets were hundreds of thousands of dollars. For the fiscal years reviewed, budgets were fairly stable except for the Districts with large capital expenditures in a single year. Due to the large variations in the Districts, the Grand Jury did not investigate nor opine on the appropriateness of the budgets.

The Grand Jury inquired about the total legal fees paid by Districts in Fiscal Year 2012-2013. Payments ranged from \$751 to \$136,482. Because of the size of the District, the activities being undertaken and the funding involved, no issues were found with the amount of legal fees paid.

All Districts are required to prepare annual independent audits of its financial operations. As is the case with other professional services, a small number of accounting firms prepare the audits. Of the responding Districts, one accounting firm services 27 Districts. This is not an unusual situation, nor was it of concern to the Grand Jury. Special districts must operate under generally accepted accounting standards and also have unique sets of accounting requirements which are nationally recognized. These standards provide guidelines for Districts to record their financial activities related to the variety of services provided, the sources of revenues and the special regulations related to many of the bonds issued by the districts. The annual audits are contracted under an annual "Letter of Engagement" which outlines what services are to be provided and the cost of providing those services. This is a standard and generally accepted approach for small governmental entities to hire an audit firm.

The Districts are generally compliant with the accounting standards. The areas where notices of deficiencies were issued by the external audit firms as part of the annual financial audit, involved a lack of division of responsibility in the financial operations. This was confirmed by testimony and document reviews. The standards call for separate individuals to be responsible for revenue billing and payment collection and separate individuals for receiving and paying bills. The posting to the general ledgers should also be reviewed by a different individual. However, this is generally impractical with the Districts' limited financial resources compared to the cost that the divisions of responsibilities would entail. No known incidents of any inappropriate activity as a result of the limited staffing for a District's financial operations were found.

Findings

F 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.

F 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.

Recommendation

R 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.

3.0 Are there more efficient organizations?

The County's Reclamation Districts are small organizations. Only seven of the Districts responding to the survey indicated they have full time employees. Many have part-time employees and a few utilize outside contract employees to perform the work associated with the District. As previously discussed, most do not have administrative staff but instead use their legal firms to provide basic administrative, accounting and financial services. The lack of financial resources is the primary reason for the limited staffing.

Twenty-four of the Districts have at least one Trustee with over 20 years of service on the Board. Because of the small populations in most of the Districts, the Grand Jury finds no cause for concern with this length in office. All Districts responded that their Trustees have filed the required Fair Political Practices Commission's "Statement of Economic Interest" (Form 700). Those Trustees who receive no compensation for service on the Boards are not required to take the training required under AB 1234.

Because of the small size of the Districts, the Grand Jury investigated whether consolidation, dissolution or some other action could result in more cost savings and efficiencies. Districts are hesitant to undertake consolidation or other actions. Many have very limited resources and there are costs and other considerations associated with dissolution or other actions. These include: (1) The application/processing fees charged by LAFCo, legal fees to prepare, advertise and adopt the required legal actions; (2) Identifying who will provide the services the District provided, a finding LAFCo is required to make before approving any action; and (3) The potential personal liability of Trustees for either dissolving a District or assuming responsibility for another District where the flood control work has not been kept to standards.

There is one small District that had the land filled in creating an island thus eliminating the need for reclamation activities. However, the cost of dissolution (LAFCo charges \$10,350 for an application to dissolve a district) and potential residual liability does not make that action attractive to the District's property owners or Trustees. A District, responding to the survey, indicated that it is dormant and has had no activity for many years. Another District remains as a reclamation district but has no budget or activity. As a result, the District would be eligible for funding should the need arise without the time and expense of being re-established. A third District has been administratively taken over by a larger, independent agency when the reclamation land fell within the new agency's purview.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code Section 56000 *et seq.*) requires each county LAFCo to conduct a review of the services provided by independent special districts within its jurisdiction. This is known as a Municipal Services Review (MSR). These are for the purpose of identifying and analyzing information about the governance structure and efficiency of these service providers and to identify opportunities to improve the quality, efficiency or cost effectiveness of local services. The law requires an MSR be conducted at least every five years. However, the State guidelines for preparing an MSR were not finalized until August 2003.

The San Joaquin LAFCo has not conducted its review of Reclamation Districts. The delay has been the result of staff shortages and limited funding. LAFCo indicated that the review is being scheduled for Fiscal Year 2014-2015. The Grand Jury reviewed the draft survey LAFCo proposes to use for its MSR for Districts. It found the breadth and range of information being requested should allow LAFCo to determine the effectiveness of current District services and to identify areas of potential increased effectiveness. If the MSR recommends consolidation, dissolution or other actions, LAFCo currently has the authority to waive or adjust the processing fees which may make it more feasible for the small Districts.

Findings

F 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.

F 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.

Recommendations

R 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.

R 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.

Conclusion

Reclamation Districts have existed in San Joaquin County since the late nineteenth century. They have increased in number and importance as the population has increased and more land was recovered from river and delta areas. They continue to provide the service of keeping water out of areas actively used for agricultural, residential and industrial functions. The Grand Jury finds that with limited sources of revenue and few employees, the Districts, in general, operate effectively and within the guidelines of State law.

While not a part of the Grand Jury's investigation, comments were made by individuals familiar with District operations about the potential impact of the proposed State water diversion tunnels through the Delta. While specifics are not yet known, the consensus of comments received was that there would be negative repercussions on every District should the tunnel project be undertaken. The County and every District must keep close watch on what the State is proposing.

There are some weaknesses in contracting for and transparency of financial planning. Both can be readily resolved. LAFCo's forthcoming review of the District's services provides an opportunity to take a closer look at the future viability of the Districts as they are now constituted and operated, or if options can be identified that would improve the efficiency of the Districts' operations. It is an opportunity that should not be ignored or diminished if a large segment of San Joaquin County is to remain viable for agriculture, habitation and recreation.

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.

All Reclamation District Boards of Directors shall respond to Findings F 1.1, F 1.2, F 1.3, F 2.1 and F 2.2 and Recommendations R 1.1, R 1.2, R 1.3 and R 2.

The Local Agency Formation Commission shall respond to Findings F 3.1 and F 3.2, and Recommendations R 3.1 and R 3.2.

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

San Joaquin County Grand Jury



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

2013 - 2014 Case No. 0413

Summary

The Grand Jury initiated an investigation based on a concern that there may have been incidents when foster parents were being paid to care for children that were no longer in their home. During the investigation the Grand Jury found no evidence of such fraudulent payments. However, other concerns arose. These included the initial training and ongoing training provided for foster parents by the County. Also of concern was the poor communication among the various divisions responsible for foster care payments and the information provided by social workers following their required monthly meetings with the foster children. The Grand Jury's recommendations are meant to strengthen the San Joaquin County Human Services Agency's (HSA) administration of the Foster Care program.

Glossary

CCR	California Code of Regulations
County	San Joaquin County
CWS/CMS	Child Welfare System/Case Management System
Eligibility Payment Unit	The department of the HSA responsible for making payments to Foster Parents

Foster Care	A system in which a minor has been placed into a ward, group home or private home of a caregiver
Foster Parent	A caregiver for a foster child
HSA	San Joaquin County Human Services Agency
HSC	State of California Health and Safety Code
<i>SafeMeasures</i> report	A computer program where case management notes are entered
Social Worker	An HSA employee who provides social casework and related services for clients
SOC158A	Form completed by the social worker when a child enters or exits the Foster Care program
Title 22	Section of CCR governing child care programs in the State of California

Background

Human Services Agency administers the Foster Care program for San Joaquin County and also administers the payments for privately licensed foster homes. All foster care operates under Title 22 regulations pursuant to the State of California Health and Safety Code (HSC). San Joaquin County foster care operates in cooperation with the court system, foster care home licensing, permanent placement and financing of the programs.

The Child Protective Services section of the San Joaquin County Human Services Agency is vast and multi-faceted. Currently there are approximately 266 licensed foster homes in the County with approximately 150 having at least one foster child placed in it. The remaining homes are prospective adoptive homes. All homes require the services of many professionals performing a variety of tasks including licensing, placement and finally, monitoring to insure that all children requiring services receive appropriate care. Social workers, with an average caseload of 30 children, are first-line advocates for these children. San Joaquin County Foster Care Assistance has an annual budget of \$37,000,000. In addition, there is approximately \$22,000,000 paid in Adoption Assistance payments which are made after a child is adopted. These figures represent significant expenditures for necessary foster care services.

Reason for Investigation

The Grand Jury is mandated by Penal Code Sections 925 and 933(a) to investigate and report on at least one county officer, department or function. The Grand Jury received a complaint and chose to investigate HSA Foster Care due to concerns that there may have been incidents where foster parents were receiving payments for children who were not actually living in the foster home. Though these concerns were never substantiated, in the course of its investigation the Grand Jury found other issues of concern in the area of training, inter-departmental communication and documentation.

Method of Investigation

The Grand Jury conducted interviews including Human Services Agency staff and foster parents. Hundreds of pages of documentation were reviewed and analyzed including court subpoenaed documents relevant to foster care.

Materials Reviewed

- HSA Financial Documents
- California Department of Social Services State Community Care Licensing Division Manual of Policies and Procedures for Foster Family Homes Title 22, Division 6, Chapter 9.5
- California Department of Social Services Evaluator Manual
- California Department of Social Services Foster Care Group Home Program Compliance Audit Protocols
- California Department of Social Services Foster Child's Data Record (SOC158A)
- California Department of Social Services Facility Review Tool Foster Family Homes (LIC 860 C)

Websites Viewed

- | | |
|--|--|
| • San Joaquin County Human Services | www.sjgov/hsa |
| • California Department of Social Services | www.cdss.ca.gov |
| • California Community Care Licensing | www.cclcd.ca.gov |

Interviews Conducted

- San Joaquin County Human Services Agency administrators and staff
- San Joaquin County Foster Parents

Discussion, Findings and Recommendations

1.0 Training for New and Continuing Foster Parents

Potential foster parents are required to complete a minimum of 12 hours of training prior to placement of a child in a home and a minimum of 8 hours of annual training as required in the California Health and Safety Code (HSC) Section 1529.2. In addition the

caregiver must complete first aid and CPR training as required in HSC Section 89405(a). HSC Section 1529.2 provides:

"(a) In addition to the Foster Parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, Foster Family agencies shall supplement the community college training by providing a program of training for their Certified Foster Families."

The four Foster Parents and two Human Services Agency staff members indicated that the County-sponsored training was outdated and repetitious. The Foster Parents felt the terms used were boring, out of date and generic. Further they felt the training did not provide usable knowledge for foster parents. Training provided by the private licensing agencies was more up to date and relevant for new foster parents. The annual mandated training provided for continuing foster parents at San Joaquin Delta College is repetitive, of little use and provides few options for foster parents. The foster parents also reported that few choices in location and topics for training were provided. The Foster Parent Association which provided mentorship for new Foster Parents was dismantled approximately 4 years ago.

The foster parents said they found value in their own religious and social foster care support groups. The County did not offer assistance in providing or identifying support groups for foster parents.

Findings

- F 1.1** The County-sponsored training for new foster parents is outdated.
- F 1.2** Annual training for continuing foster parents is repetitive.
- F 1.3** The County does not offer nor identify support groups to assist foster parents.

Recommendations

- R 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.
- R 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.

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

Social workers complete an eligibility report that is submitted directly to the Eligibility Payment Unit which makes payments to the foster families. At times the social worker

does not submit the paperwork verifying the children placed in the foster home or any changes in status in a timely manner which results in overpayment to the foster home. The Eligibility Payment Unit is required to continue making payments to the foster parents until they receive a change in status form, SOC158A, from the social worker. Overpayments due to administrative errors are not recoverable based on a 1997 *Anderson vs. Bass* judicial ruling. This results in a loss of revenue to the County. According to documents provided by the Eligibility Payment Unit, during a randomly selected six month period in 2013, \$20,433.00 was not recoverable due to administrative errors by social workers

Although the Eligibility Payment Unit prepares flyers encouraging social workers to file the SOC158A in a timely manner, the documentation is still sometimes late. The Eligibility Payment Unit does not receive the names of social workers who are responsible for overpayments, nor is it able to report those names to the social workers' supervisors for follow up actions

Findings

F 2.1 When social workers do not file a form SOC158A in a timely manner it may result in unrecoverable overpayments to foster parents.

F 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.

Recommendation

R 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.

3.0 Required Monthly Visitations by Social Workers

Title 22 of the California Code of Regulations requires every child in foster care to have a scheduled face-to-face visit with the social worker at least monthly. Seventy-five percent of these visits must be at the foster home. The purpose of these visits is to check on the welfare of the child and to insure that there are no problems with the placement in the home. Additional unscheduled visits may occur if a complaint has been made about the foster home or caregivers or if the Social Worker deems it important to assure the child's welfare.

Following each visit the social worker is required to document the monthly visit in the CWS/CMS, which is used statewide in California for child welfare. This data base is used to track visitations of the foster children and verifies eligibility for funding under federal regulations.

The federal standard for Timely Monthly Caseworker Visits is 90%. San Joaquin County had a 91.2% overall visitation rate in 2013. This is comparable to other counties in the

State based on a review of a State-wide compilation of the *SafeMeasures* reports. This report provides an array of information based upon data entered into the CWS/CMS.

No testimony or materials reviewed indicated that there exists a standardized reporting form or checklist which may be used by the Social Worker during the visit or immediately after. Some social workers just write notes in their car following the visit which they then input into the CWS/CMS as time allows. Recently reported problems with State agencies dealing with child care have shown that a lack of documentation reduces investigative abilities and accountability of social workers charged with protecting youth placed under care. While no such incidents have been revealed in the County, precaution and preventive action may prevent future issues.

Findings

F 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.

F 3.2 A lack of immediate detailed documentation may weaken the accuracy of the *SafeMeasures* report.

Recommendation

R 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.

Conclusion

Providing foster care to protect youth who have been abandoned or are from homes that no longer can care for them is an important County service. Just as important is the possibility that these youth will be placed in adoptive homes with parents who will love and care for them. Support for these children is an important role for society, and an organization that gives its best is critical.

The Grand Jury's investigation of the County's foster care programs administered by the Human Services Agency resulted in mixed findings. The people who work in the foster care program are dedicated to their jobs and helping the youth. As with many governmental agencies, they have been hampered by lack of resources, dated and out-moded tools and administrative procedures that do not place primary focus on their mission. In some areas of the foster care program, such as training for prospective and active foster parents, the private sector does a better job. The County's foster care program is regulated by a State Agency, the California Community Care Licensing Division, which has repeatedly been shown in news reports to be incapable of serving the at-risk youth of this State. Mandatory training under State regulations is repetitive, boring and often irrelevant. Initiative at the County level to make the foster care and

adoptive service process even more supportive, relevant and dedicated to the youth would be a clear sign to the community that County officials really care.

The County suffers from its own inertia. Regulations prohibit some administrators from knowing which social workers are behind or failing in their responsibilities. While this results in comparatively small financial impacts on the County, the inability to hold HSA employees accountable for their actions may have an operational impact on the foster families. Repeated changes in social workers assigned to a youth may impact both the child and the parents. The Grand Jury believes that there are relatively easy solutions to these concerns – the HSA administration needs to show resolve to identify, address and correct the problems.

The bright side of the Grand Jury's investigation was the commitment and love shown by the foster parents interviewed. Despite the obstacles placed before them, they care and persevere to give the children supportive home environments. While not practical, the Grand Jury would hope that all foster parents approved in the process could be of the caliber of those met.

Children are our society's future! Foster children deserve no less an opportunity and support than that given to all children.

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 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.

The San Joaquin County Board of Supervisors shall respond to all findings and recommendations in this report.

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.

San Joaquin County Grand Jury



STOCKTON UNIFIED SCHOOL DISTRICT: *Do After-School Programs Compromise Student Safety?*

2013 - 2014 Case No. 0713

Summary

After-school programs serve thousands of children in the elementary and secondary schools throughout San Joaquin County. Stockton Unified School District (SUSD) is the largest school district in the County, serving approximately 37,000 students in 39 elementary schools, four comprehensive high schools and numerous alternative settings. After-school programs are provided by Community Partners who have contracts with SUSD.

The 2013-2014 Grand Jury learned of concerns with SUSD after-school programs from newspaper articles beginning in July 2013. The issues were largely about the quality of services provided by Boys and Girls Club of Stockton, one of the Community Partners which received as much as \$1.3 million from SUSD in a single year.

When the Grand Jury began investigating the SUSD after-school programs it found that there were other, more serious problems. These problems were with the hiring practices of the Community Partners and the lack of monitoring by Stockton Unified School District. After conducting interviews and examining documents, the Grand Jury determined that neither the District nor the Community Partners are able to guarantee that all employees working with children are fully cleared based on Department of Justice (DOJ) reports. Furthermore, it cannot be guaranteed that all employees have met the academic qualifications as stipulated in the Community Partners' contracts with the District. Additionally, the Grand Jury found that language in contracts with Community Partners does not match the employee qualifications language in the After School Education and Safety Grant.

The 2013-2014 San Joaquin Grand Jury recommends that Stockton Unified School District develop procedures that will enable the District to regularly examine documentation held by

the Community Partners. The documents to be audited need to show that all employees are professionally qualified and are completely void of any background issues deeming them unsuitable for working with children. The Grand Jury also recommends that the District change the language of the contracts to match the grant requirements.

Glossary

ASES	After School Education and Safety Program, a grant which provides funds for after-school programs in California
Community Partner	An agency working in partnership with SUSD to provide after-school services
District	Stockton Unified School District
DOJ	California Department of Justice
NCLB	No Child Left Behind Act of 2001, federal legislation regarding education requirements
Proposition 49	California After School Education and Safety Program Act of 2002
SUSD	Stockton Unified School District
YMCA	Young Men's Christian Association

Background

Throughout San Joaquin County, there are a wide variety of programs providing services to students when the regular school day is over. All school districts in the County have these programs spanning grades kindergarten through twelve. Stockton Unified School District and its Community Partners serve more than 5,000 students in its after-school programs. These programs are funded by an After School Education and Safety Program (ASES) grant and other grants totaling more than \$7,000,000. The services are free to District families. The largest of these programs is *Step-Up* which is designed for elementary students in kindergarten through eighth grade.

For many years all of the elementary after-school programs were provided by City of Stockton Parks and Recreation Department employees. Recreation was the emphasis and after a brief homework period the children would play games or complete art projects while supervised by Parks and Recreation Department personnel. In 2004, as a result of greatly increased funding provided due to the passage of Proposition 49, the nature of the services changed. This increase came in the form of grant funding from the State of California. The

District applied for and received funds from the grant to provide a program that was more academic than recreational.

Currently the purpose of the after-school programs is to increase basic math and language arts skills, student engagement in school, student physical fitness and to provide a safe environment for children during after-school hours. These new goals resulted in a change in the focus of the services provided which is described in the District's After School Program Plan:

"All programs include a minimum of three hours a week of academic support for all students registered in the program. Certificated teachers provide a district approved academic curriculum and paraprofessional staff are also trained to implement the curriculum."

"... The educational enrichment element comprises up to at least two hours of each day's program. Staff is trained in basic tutoring procedures and positive behavior management as well as implementation of purchased materials."

As the focus changed, so did the providers. Numerous agencies throughout the County applied to the District to provide the after-school services and many were awarded contracts. Currently Stockton Unified School District provides central administrative support and a teacher from the school. This school-site teacher serves as the liaison between the District and the Community Partner as well as the coordinator of other teachers who provide after-school instruction. The Community Partners employ additional staff to provide direct services to students as well as staff to supervise their site employees and work with school personnel.

At the beginning of the 2013-2014 school year there were five main Community Partners under contract with the District to provide services to after-school students. The Grand Jury examined the practices of these five major providers:

- YMCA
- El Concilio
- University of the Pacific's Jacoby Center for Community and Regional Studies
- Boys and Girls Club of Stockton
- Community Resources Department of the City of Stockton

In December 2013, Boys and Girls Club of Stockton lost its charter with the national Boys and Girls Club organization. In response, the District terminated its contract with the now unaffiliated organization. The YMCA was contacted and agreed to provide the after-school programs from January to June of 2014 at all sites formerly served by Boys and Girls Club.

Reason for Investigation

The Grand Jury became aware of concerns that some District principals had with the after-school services provided at SUSD schools by Boys and Girls Club of Stockton. *The Record* reported that some principals did not want to work with Boys and Girls Club. Issues cited by them included a high rate of employee turnover, inappropriate employee behavior and the inability of some employees to work with children. These and other reported problems caused the Grand Jury to begin an investigation of the Stockton Unified School District's after-school programs.

Early in this investigation, the Grand Jury found that an employee of one of the Community Partners who had been working with children in the after-school program was wanted for serious criminal activities. This was discovered by Stockton Unified School District (District) when an administrator recognized the employee's name in the local newspaper's crime reporting section. The individual was ultimately removed from working with children in the after school program, but only following lengthy discussions between the District and staff of the Community Partner.

This alarming revelation caused the Grand Jury to conduct a more detailed investigation. It then focused on the hiring practices of the organizations that placed after-school employees in contact with students and the District's monitoring of those practices.

Method of Investigation

The Grand Jury interviewed Stockton Unified School District administrators and administrative officers from all five major Community Partners. In addition, the Grand Jury examined the following documents:

- Descriptions of all after-school programs in San Joaquin County
- Financial data from the *California After School Network*
- The Stockton Unified School District *After School Program Plan*
- 2013-2014 contracts between the District and all Community Partners
- Contracts and memorandums of understanding between other school districts and their after-school service providers
- California Department of Education's *Description of Program and After School Education and Safety Frequently Asked Questions (FAQs)*
- California Education Code Section 8482 regarding after-school programs
- California Education Code Section 45125 regarding the mandate to fingerprinting employees
- California Penal Code Section 11105.2 regarding *Subsequent Arrest Notifications*
- Monthly reports (July through October 2013) provided to the District by each of the five main Community Partners
- Program quality surveys completed by principals for December 2012, June 2013 and December 2013

- Personnel documents for employees of the five Community Partners

Discussions, Findings and Recommendations

1.0 Fingerprinting

The California Education Code requires that everyone working with school children is required to be fingerprinted before they begin work. This requirement includes all district employees as well as all contract employees who work at a school site. The intent of this requirement is to assure that there are no background issues indicating that the person could be a danger to children.

After being selected to work with students and prior to starting work, new employees are fingerprinted. These fingerprints are sent to the DOJ for processing. The employing agency receives a report from DOJ showing prior arrests and convictions. This report is then reviewed by the employer to determine whether the individual should be working with students. In addition, the employer receives a DOJ *Subsequent Arrest Notification* in the event an employee is arrested after being employed.

In interviews with Community Partner personnel and from the examination of employee documents, it was determined that two of the five Community Partners do not receive these reports from the DOJ but rely on a third party to monitor the criminal history and any subsequent arrest notices. One Community Partner relies on the California Community Care Licensing Division to monitor the DOJ reports. Another Community Partner uses the District Police Department to monitor all DOJ reports, citing cost as the reason they do not monitor their own employees.

Since other agencies receive the DOJ reports, neither of these two organizations receive full, direct information about the applicant. No arrest notifications are provided to either. In the case of the Community Partner working with the District Police Department, only a copy of a District form is provided to them indicating that the applicant is cleared. The only information about the individual's criminal history on the form is a checked box. This copy of the form is then carried by the applicant to the employer and used to verify eligibility for employment.

Findings

F 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.

Recommendation

R 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*.

2.0 Employee Qualifications

The California Education Code Section 8483.4 describes the employee qualifications required by the After School and Safety Program grant:

"The grant administrator is to establish minimum qualifications for staff members who directly supervise students that meet the district's qualifications for an instructional aide. Documentation that demonstrates this requirement should be maintained for audit purposes."

Therefore, employees of the Community Partners who directly work with the students in the after-school program must meet the same qualifications as for instructional aides (paraprofessionals) in the District.

The contracts state that the Community Partner, "will only place after-school staff employees at SUSD sites who are NCLB compliant." The NCLB requirements for paraprofessionals are as follows:

1. High school diploma or the equivalent, **and**
2. Two years of college (48 units), **or**
3. A. A. Degree (or higher), **or**
4. Pass a local assessment of knowledge and skills in assisting in instruction."

The Grand Jury examined many employee documents and numerous issues were found. One Community Partner did not have any academic documentation for one employee. Another Community Partner hired an individual who had only partially met the local assessment requirement. A Community Partner accepted transcripts from an unaccredited university; hired an applicant with an unevaluated diploma from a foreign college; and accepted transcripts from two individuals even though the documents did not show the students' names.

The NCLB requirements are simply stated but can be very complex in certain situations. At least some of the Community Partners do not have the expertise to analyze transcripts. They have not received training to gain this expertise, nor have they been provided assistance from any entity that could enable them to guarantee that college degrees and/or units are valid. District after-school administration also does not possess the necessary skills to validate after-school employee qualifications. Expertise in applying the NCLB requirements is typically found in a district's human resources department.

Early in December, a highly publicized conflict occurred between the Stockton Unified School District and Boys and Girls Club of Stockton. During the week of December 9, 2013, the national Boys and Girls Club revoked the charter of the local organization. Soon after, the District invalidated the contract with Boys and Girls Club. Very quickly, the YMCA was contracted to take over the 12 schools formerly served by Boys and Girls Club of Stockton. While attempting to provide jobs for as many of the Boys and Girls Club employees as it could, it was found that eight were not NCLB qualified. In addition, a District administrator audited Boys and Girls Club personnel files and found 18 to 20 employees had not been qualified to work in SUSD after-school programs.

Finding

F 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.

Recommendation

R 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.

3.0 Auditing of Contracts

The current contracts between the District and the Community Partners contain two exhibits that require the Community Partner to certify that their employees meet specific requirements prior to being hired. *Exhibit F* of the contract requires the Community Partners to certify that the fingerprint requirements are met for all employees. *Exhibit G* requires the Community Partners to certify that the NCLB requirements are fully met.

No evidence was found that the District conducted any audits of the Community Partners prior to January 1, 2014. In 2014, the District did audit Boys and Girls Club of Stockton and found numerous examples of their employees not meeting the NCLB requirements. The Grand Jury investigation also found numerous examples of employees not meeting NCLB requirements or the Community Partner not reviewing DOJ reports. Given the extent of issues found during the Grand Jury investigation, it appears that greater monitoring is needed.

Findings

F 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.

F 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.

Recommendations

R 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.

R 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.

R 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.

4.0 Contract Consistency

The educational qualifications enumerated in the contracts between the District and the Community Partners do not match the actual NCLB requirements. The contract language in *Exhibit G* is as follows:

"All paraprofessionals shall have:

- (a) high school diploma or GED
- (b) completed at least 2 years of college (minimum 48 semester units)
- (c) obtained an Associates (or higher) degree; or
- (d) met a rigorous standard of quality and can demonstrate, through a formal local academic assessment and proof of certification through the San Joaquin County Office of Education."

The following language is found in the No Child Left Behind Act (bold words are NCLB's):

- “1. High school diploma or the equivalent, **and**
2. Two years of college (48 units), **or**
3. A. A. degree (or higher), **or**
4. Pass a local assessment of knowledge and skills in assisting in instruction.”.

Finding

F 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.

Recommendation

R 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.

Conclusion

Since 2004 when the Stockton Unified School District after-school programs began to provide a more academic program, the quality of services to children has greatly improved. The programs have expanded and serve more students.

The Community Partners strive to place the best individuals in schools to work with students but are faced with many challenges. The jobs are low-paying, many of the employees are students themselves and there is a very high rate of turnover. This creates impediments, particularly in the areas of hiring and training of personnel. It is imperative that these challenges be met as the safety of students and the quality of instruction are at stake.

During interviews with Community Partners and with District administrators there appears to be a willingness to address these critical issues. The Grand Jury expects this will happen.

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 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.

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

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.

Appendicies

Appendix A: *Exhibit F, Certification of Fingerprinting*

Appendix B: *Exhibit G, Certificate of Compliance with No Child Left Behind (NCLB)*

APPENDIX A

CERTIFICATION OF FINGERPRINTING

To the Governing Board and the District Administrator in charge of the following services:

I. Identification of Parties

I, _____, am an individual contractor and/or vendor or I am an authorized representative of _____, My entity seeks to contract with the District, which may cause my entity and its employees, agents or independent contractors to come in contact with pupils, and I am aware of the requirements of Education Code section 45125 et. seq.

II. Certifications

I make the following certifications, under penalty of perjury:

- A. _____ shall not begin to provide services to the District pursuant to that certain Contract Regarding After School Safety and Enrichment Program date July 1, 2011 (the "Contract"), nor _____ permit any of my employees, agents or independent contractors to come in contact with pupils pursuant to the Contract until the Department of Justice has ascertained that the person has not been convicted of a serious or violent felony as defined in Penal Code sections 1192.7(c) and 667.5(c) or of a sex or controlled substance offense. (Education Code § 45125.1(e).)
- B. Appropriate officials at _____ have reviewed the results of the fingerprinting information ascertained by the Department of Justice, and none of _____ employees, agents or independent contractors who may come in contact with pupils pursuant the Contract have been convicted of a felony as noted in Paragraph A, above. (Education Code § 45125.1(f).)
- C. Attached to this certification form is a list of the names of _____ employees or independent contractors who may come in contact with pupils to this certification form. (Education Code § 45125.1(f).)

I declare under penalty of perjury under the laws of the State of California that the information provided above is true and correct. Executed this 22nd day of July, 2013, at Stockton, California.

APPENDIX B

CERTIFICATE OF COMPLIANCE WITH NO CHILD LEFT BEHIND (NCLB)

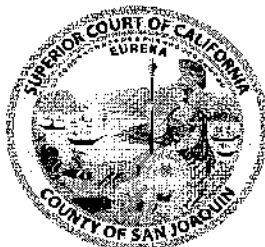
acknowledges the Stockton Unified School District's paraprofessional requirements. The After School Education and Safety (ASES) grant requires all after school staff who directly supervise children to meet the same qualifications as a SUSD paraprofessional.

All paraprofessionals shall have:

- (a) high school diploma or GED;
- (b) completed at least 2 years of college (minimum 48 semester units)
- (c) obtained an Associates (or higher) degree; or
- (d) met a rigorous standard of quality and can demonstrate, through a formal local academic assessment and proof of certification through the San Joaquin County of Education.

_____ will comply with these requirements and will only place after school staff employees at SUSD sites who are NCLB compliant. _____ will attach the names of all compliant staff with each monthly invoice.

San Joaquin County Grand Jury



STOCKTON UNIFIED SCHOOL DISTRICT: *Swiftly Hired*

2013 - 2014 Case No. 0813

Summary

The Grand Jury received two complaints alleging Stockton Unified School District (District) Superintendent violated District Board Policy (BP) and California Education Code (E.C.) by illegally hiring an Interim Chief of Police, thus bypassing the required pre-employment requirements. The complainants alleged the process the District used put staff and students in danger. The complainants further alleged that a hostile work environment was created by the Interim Police Chief and his staff. California E.C. and District BP requirements have specific hiring procedures for new employees. The Grand Jury found that the Superintendent did violate E.C. Section 45125(c) and District BP 4212 by allowing two interim District Police Department (PD) employees to start work prior to receiving the required Department of Justice (DOJ) fingerprint clearance report. The District did not meet these requirements and allowed two employees to begin work prematurely.

Glossary

G.C.	California Government Code
District	Stockton Unified School District
DOJ	California Department of Justice
E.C.	California Education Code

EC 38000(b)	Education Code section that defines the formation of a public school police department
Interim Chief	Temporary or transitional police position
District HR	Stockton Unified School District Human Resources Department
MOU	Memorandum of Understanding, bilateral agreement between two parties
Penal Code 830.32	California Penal Code section which defines the authority of School District Police Officers
P.O.S.T	Commission on Peace Officers Standards and Training
SPD	Stockton Police Department
SUSD BP	Stockton Unified School District Board Policy
SUSD PD	Stockton Unified School District Police Department
Vetting	A thorough and diligent review of a person prior to hiring

Background

In 1985 Stockton Unified School District Police Department was established under E.C. Section 38000(b) which states:

"The governing board of a school district may establish a school police department under the supervision of a school chief of police and, in accordance with Chapter 5 (commencing with Section 45100) of Part 25, may employ peace officers, as defined by subdivision (b) of Section 830.32 of the Penal Code, to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district."

Stockton Unified School District Police Department (District PD) provides services to over 37,000 students, serves over 4,500 staff and answers calls for service at 60 school sites within the District. District Police Officers are sworn police officers per the California Penal Code Section 830.32 and their authority is defined by E.C. Section 38000(b). The primary functions of District Police Officers are to ensure the safety and security of school district personnel, students and property. SUSD PD has a current Memorandum of Understanding (MOU) with the City of Stockton and is working to develop an MOU with the Sheriff for the schools located in the unincorporated areas in San Joaquin County.

The past practice of the District and the District PD was for an applicant for the position of district police officer to submit an application to the District PD Lieutenant. The Lieutenant would then start the pre-employment process which includes a background investigation. Stockton Unified School District Human Resources (District HR) was not involved in the initial process. District HR did not oversee or verify minimum qualifications and education requirements of District PD applicants, nor did they verify pre-employment requirements before the applicant began work. District HR does not have expertise in background investigations of police officers and police personnel.

The District Superintendent and Board opted to select an Interim Chief from outside the department and began negotiating with the Stockton Police Department (SPD) for the loan of an officer. Agreement was not reached and on August 28, 2013, the agenda item relating to the hiring of an Interim Police Chief from SPD was removed from the District School Board Agenda. The District then turned to the San Joaquin County Sheriff's Department for assistance. Retired Sheriff's Department captains were considered. At a Special Board Meeting on August 29, 2013, the Board of Trustees gave the Superintendent the authority to choose an Interim Police Chief. On August 30, 2013, the retiring chiefs last day, the Superintendent selected the Interim Chief. *The Record* newspaper quotes the Superintendent on August 30, 2013: "We'd like to have this be seamless with the chief's retirement..." "We will have coverage as of 12:01 a.m. Sunday. My hope is we could consummate a deal (today)." The Interim Chief started working the next day.

Weeks later on September 24, 2013, the District Board approved the Interim Chief's contract by a vote of 6-1. At the same meeting the Board created and filled a District PD Captain position by a vote of 4-3. The Captain began work on September 30, 2013, the same day his background check was started and the fingerprints and tuberculosis test were taken.

Reason for Investigation

The Grand Jury received two complaints alleging that the hiring of the District PD Interim Police Chief was illegal and a direct violation of District BP and E.C. Complainants' alleged staff and students were put in danger because the applicant was not vetted properly to determine if the candidate was of good moral character.

Method of Investigation

The Grand Jury reviewed documents, conducted interviews and made site visits.

Materials Reviewed

- SUSD Board Minutes

- Stockton Record blog reports
- California Education Code Section 38000(b)
- California Government Code Section 1031
- SUSD Board Policies and Procedures on Hiring
- Numerous local press articles
- California Education Code Section 45125

Interviews Conducted

- Stockton Unified School District Police Personnel
- Stockton Unified School District Board Members
- Stockton Unified School District Employees

Sites Visited

- Stockton Unified School District Police Department
- Shadowing a school district resource officer at Stagg High School

Discussions, Findings and Recommendations

1.0 Pre-employment Requirements

California E.C. Section 45125(c) states:

"The governing board of a school district shall not employ a person until the Department of Justice completes its check of the state criminal history file as set forth in this section and Sections 45125.5 and 45126..."

District BP 4212 states:

"The Governing Board shall approve the appointment of all full-time, part-time and hourly classified employees. Temporary, substitute, short term and student employees may be appointed by the Superintendent or designee. The position and the pay rate shall be reported to the Board at a regular meeting.

"Individuals appointed to the classified staff shall fulfill the following requirements:

- *Submit to fingerprinting prior to the date of employment (E.C. 45125) ...*
- *Submit to a physical examination or proof thereof as required by law and Board Policy ...*
- *File the oath of affirmation of allegiance required by Government Code (G.C.) 3100-3109 ..."*

The Superintendent hired the Interim Chief and failed to direct him to complete the pre-employment requirements prior to the start of work. There is a unique process in the hiring of police personnel because of the requirements in the State of California Government Code (G.C.) Section 1031 which states:

"Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

- Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.*
- Be at least 18 years of age.*
- Be fingerprinted for purposes of search of local, state and national fingerprint files to disclose a criminal record.*
- Be of good moral character, as determined by a thorough background investigation.*
- Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year or advanced degree from an accredited college or university."*

Almost all HR departments in the County do not have the expertise to perform the unique background checks on applicants for employment with law enforcement. However, all but one law enforcement agency in San Joaquin County work with their respective human resources departments. Though the District HR is not able to perform the background investigation, polygraph or psychological testing, it does have expertise in the area of employment requirements. District HR is responsible to direct and coordinate all steps in the hiring process for all District departments. Had the Superintendent and the District HR worked cooperatively to hire the Interim Police Chief and Captain, all mandatory steps of the hiring process would have been completed in a legal and timely manner.

On-site visits and testimony revealed District PD had serious problems, including personnel issues that needed immediate attention. Some problems include: inadequate and faulty processing of evidence, conflicting groups of employees (commonly called the A Team and the B Team) within the department, lack of confidentiality, lack of accountability, evidence property being used for personal use and inequity between officers with calls for service and shift selections. The Interim Police Chief recommended that the District Board and District Superintendent hire an outside consulting firm for a comprehensive review of the department. District Board and Superintendent agreed and the investigation is currently in progress at the time of writing this report. The focus of this investigation is only on the hiring process of the District Interim Police Chief and Captain and if any State Laws or Board Policies were violated in the process.

District HR is responsible for processing all new employment applications for the District with the exception of the District PD. When budget approval is given for a position, HR posts the job. HR verifies that all candidates meet the minimum qualifications for the position. A list of qualified candidates is developed and applicants from this list are interviewed. When a candidate is selected HR, offers the job and advises him/her that employment is contingent on a review of the DOJ report and tuberculosis testing results

During the term of the retiring chief, all processing of the new police applicants was handled within the District PD. HR was only involved in the later stages when employee information is required to be entered into the payroll computer system. The salary payments to both the Interim Chief and Captain were late because the District had not received the DOJ clearance.

Findings

F 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.

F 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.

F 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.

Recommendations

R 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.

R 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.

Conclusion

The services provided by the Stockton Unified School District Police Department are extremely important. The safety of staff and students is paramount and essential to accomplishing the mission of the District. The 2013-2014 Grand Jury is aware that major changes are underway at the Stockton Unified School District Police Department. On February 25, 2014, the District hired a permanent Chief of Police. The new chief was sworn on April 9, 2014, and began leading the Stockton Unified School District Police on that date. By the time this report is published a full and comprehensive review of the District Police Department should have been completed., The purpose of this Grand Jury Report, has been to shed light on what was a rushed and flawed process to fill a vacancy at the top of the District Police Department. This action did not just violate the California Education Code and the District Board Policy, it could have put the District at legal risk. The Grand Jury expects that in the future the process for hiring all personnel will be done thoughtfully and legally.

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 Unified School District Board of Trustees 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 a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org.

San Joaquin County Grand Jury



SAN JOAQUIN COUNTY JAIL GRIEVANCES: *Denied or Not Denied?*

2013 - 2014 Case No. 0913

Summary

The Grand Jury received a complaint from an inmate incarcerated in the San Joaquin County Jail alleging that he was denied the opportunity to file a grievance which violated his rights under the State of California Code of Regulations Title 15. During the inmate's confinement since 2010, the San Joaquin County Jail processed 31 complaints from the inmate. The Grand Jury reviewed the San Joaquin County Sheriff's Office (SO) grievance policy which is mandated by Title 15. The Grand Jury found the SO has met the requirement of the California Code of Regulations Title 15, Section 1073 guidelines.

Glossary

Administrative Segregation	A classification defining high risk inmates who are a danger to themselves or others housed separately from the general population
CCR	California Code of Regulations
Citizen Complaint	A complaint filed with the Sheriff's Office by person(s) not in custody

Grievance	An inmate complaint filed with a jail staff member related to the conditions of confinement
IA	Sheriff's Department Internal Affairs Unit
Section 1073(a) C.C.R.	California Code of Regulations Title 15 that mandates all Type II Jail Facilities have a grievance policy
Section 1073(b) C.C.R.	California Code of Regulations Title 15 that addresses grievance system abuse
Section 26605 G.C.	California Government Code defining the types of jail facilities
SO	San Joaquin County Sheriff's Office
Type II Facility	A local adult detention facility used for the detention of unsentenced and sentenced inmates
Title 15	State of California Minimum Jail Standards for local detention facilities for adults

Background

The San Joaquin County Jail, as mandated by Section 26605 G.C., operates as a Type II facility to detain, for varying periods of time, adults who are awaiting arraignment, trial and disposition, or are serving sentences. The San Joaquin County Jail serves as a county intake center for adults and provides detention of pretrial inmates and incarceration of sentenced inmates. Juveniles are not housed in this jail. A primary function of the San Joaquin County Jail is to provide facilities for secure confinement. It is a jail managed under the concept of direct supervision. Persons housed, will be confined under the least restrictive conditions based on past and current behavior. Those who by their actions show they will adhere to facility rules follow the directions of the staff and not cause problems will be provided free access to make collect phone calls, visitation, and recreation, religious and educational services. On the other hand, the facility is constructed to restrict some or all privileges for those who display disruptive behavior or considered to be a danger to themselves or others.

In 1992, the Sheriff's Operations Center and Jail became centralized with all services at one site. An expansion, completed in 2004, added 132 jail beds increasing the capacity to a total of 1,411 beds. Persons housed in the jail will be confined under the least restrictive conditions. The California Code of Regulations Title 15 (revised September 19, 2012) states that an administrator of a Type II Jail shall develop written policies and procedures for grievances. An inmate may appeal and have grievances resolved relating

to any conditions of confinement, including but not limited to: medical care, classification actions, program participation, telephone, mail, visiting procedures, food, clothing and bedding.

Reason for Investigation

The Grand Jury received a complaint from an inmate housed in the jail. The inmate alleged he was denied the right to file a grievance. The inmate obtained a citizen's complaint form designed for persons who are not in custody to file his complaint. The inmate's relative also filed a complaint on the inmate's behalf by writing a letter directly to the San Joaquin County Sheriff. The Grand Jury reviewed the Sheriff's response to the complaint from the inmate's relative.

Inmates housed at the San Joaquin County Jail have full access to grievance forms. The forms are available in the common areas of the jail. If an inmate has restricted access or is housed in administrative segregation, the inmate can obtain a grievance form when allowed to leave the cell. An inmate may also obtain the form from the officer working in the housing area. When inmates complain of violations by officers those complaints are transferred to the Sheriff's Department Internal Affairs Unit (IA) for investigation. When inmates use improper forms to file grievances, they are returned to the inmate with instructions on correctly filing the grievance.

The scope of the investigation was to determine whether or not the San Joaquin County Jail has grievance policies and procedures as mandated by Title 15, Section 1073 C.C.R. The scope of the investigation was also to find out how the policy is administered and whether or not inmates are denied the right to file grievances.

Method of Investigation

The Grand Jury visited the jail, interviewed personnel and reviewed records.

Materials Reviewed

- California Code of Regulations Title 15, Section 1073 Inmate Grievance Procedures
- Government Code Section 26605
- San Joaquin County Sheriff's Policies and Procedures Section 6.5.0 Inmate Grievances
- Inmate Orientation and Rule Book San Joaquin County Sheriff's Department Custody Facilities
- Inmate Grievance Form
- Citizen Complaint Form
- Randomly selected grievances filed by inmates

Interviews Conducted

- Jail management personnel
- Sheriff's Department Internal Affairs personnel

Sites Visited

- San Joaquin County Jail

Discussions, Findings and Recommendations

1.0 Grievance

An inmate filed a complaint with the Grand Jury alleging that he was denied the right to file a grievance. The California Code of Regulations Title 15 Section 1073(a) Inmate Grievance Procedures, states,

"(a) Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby any inmate may appeal and have grievances resolved relating to any conditions of confinement, included but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; and food, clothing, and bedding. Such policies and procedures shall include: a grievance form or instructions for registering a grievance; resolution of the grievance at the lowest appropriate staff level; appeal to the next level of review; written reasons for denial of grievance at each level of review which acts on the grievance; provision for response within a reasonable time limit; and provision for resolving questions of jurisdiction within the facility."

The San Joaquin County Jail Inmate Orientation and Rule Book Section II. E. Grievances indicate that while in the San Joaquin County Custody Facility an inmate has the right to file a grievance relating to medical care, classification actions, procedures, food, clothing and bedding. The inmate is directed to first speak to the housing unit officer for a possible solution to the problem. If this doesn't solve the problem, then the inmate may file a formal grievance. It also indicates that the instructions for the entire grievance process are found on the "Inmate Grievance Form". It notes that inmates may not grieve decisions handed down by the courts or disciplinary actions.

It is the SO's policy that all inmates be provided with a system of redress as a means of expression and resolution for conditions related to confinement. All levels of resolving complaints have time limits for completion and reasons for referring to the next level of command. Grievances received are resolved at the lowest level in the chain of command. If the complaint cannot be resolved at the lowest level, the next levels for resolution are the Duty Sergeant, then the Facility Commander and ultimately the Custody Captain. The Duty Sergeant reviews the inmate's records to verify if the inmate is repeating the same grievance. If so, the grievance is routed back to the inmate informing him that one grievance form is all that is required and all extras will not be accepted. When inmates

make allegations against an officer's conduct or any issues concerning use of force, jail administrators forward those complaints to IA for investigation.

The Grand Jury reviewed options available to inmates for obtaining grievance forms. Inmates in administrative segregated housing can obtain grievance forms from officers working the housing areas, inmate workers or when the inmate is allowed to leave the cell. Grievance forms are available in the common areas for inmates in minimum security housing and can also be obtained from officers. In this instance, the inmate did not use the proper form to file his grievance. He used a citizen's complaint form, which is intended for use by persons who are not in custody. The procedure for a complaint submitted on a citizen complaint form automatically goes to the Internal Affairs Unit for processing. Grievances received from inmates on citizen's complaint forms are routed back to the inmate, who is then provided with the proper form for processing within the jail.

The inmate has been in custody since December 2010. He has filed 31 complaints against San Joaquin County Jail staff about phone calls, pencils not sharpened to his satisfaction, food tampering, opened mail and the possibility of someone taking the bolts off the cell door. All complaints had been responded to in accordance with the San Joaquin County Jail grievance policies and procedures. The inmate did use the established procedures for most of the grievances filed. All filed grievances have been resolved or found not to be valid Title 15 grievances by the SO. The Grand Jury did not find evidence that inmates are denied the right to file grievances.

Findings

- F 1** The San Joaquin County Sheriff's Office is in compliance with the California Code of Regulations Title 15, Section 1073.
- F 2** The inmate was made aware of the Grievance Policies and Procedures. All 31 grievances were resolved or found by the SO not to be valid Title 15 grievances.

Conclusion

This investigation afforded the Grand Jury the opportunity to look at a specific application of policies and procedures by the San Joaquin County Sheriff's Office. Grievances are part of the checks and balances for the well-being of the inmates housed in the Jail. Sometimes the grievance system is abused. The California Code of Regulations Title 15, Section 1073(b) allows the SO to establish written policies and procedures to control the submission of repetitive grievances. Those safeguards against abuse of the grievance system are written in the San Joaquin County Jail's policy. The policies and procedures maintain that the grievance procedure is necessary for maintaining security, safety and order in the San Joaquin County Jail. This is a part of interpersonal communications and provides a positive means of communication between

inmates, staff and management. It allows inmates to vent frustrations in a diplomatic manner rather than through some other means, which could jeopardize or threaten the security and safety of the officers, inmates and the jail. The San Joaquin County Jail did not restrict the inmate's opportunity to file grievances.

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 Section 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 60 days of receipt of the report.

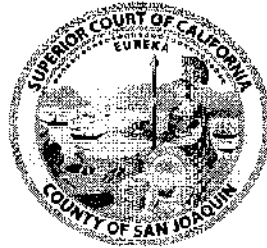
The San Joaquin County Sheriff shall respond to each findings in this report.

Mail or hand delivers 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 a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org

San Joaquin County Grand Jury



STOCKTON CITY COUNCIL AND THE BROWN ACT:

The Law Applies to Everyone

2013 - 2014 Case No. 1113

Summary

The Stockton City Council (City Council) conducted a recruitment for a new city manager in 2013 that was ill-managed, contentious and opened too many opportunities for self-interest parties to manipulate the process and to deliberately expose confidential information from City Council Closed Session meetings in violation of the Ralph M. Brown Act. The Mayor was admonished for releasing confidential information on one occasion. However, there were many occasions during the recruitment period when all members of the City Council knew about violations of the Brown Act. Despite this knowledge, they did not publicly disclose the unlawful releases of confidential information even when they were aware of it weeks before the Mayor's eventual press release debacle.

The investigation of this activity also led to discovery of a potential liability exposure resulting from lack of supervision and training for elected officials' volunteers regarding City computer security and procedures.

Glossary

AB 1234	Assembly Bill 1234, adopted in 2005, adding Sections 53234 through 53235.2 of the Government Code requiring local agency officials to take an ethics training course upon election or appointment and every two years during their term
Brown Act	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
<i>et seq.</i>	To include the sections that immediately follow the identified section and pertaining to the same topic
City	The City of Stockton, California
City Attorney	The appointed attorney representing the City Council and City of Stockton in all legal matters
City Charter	The Charter of the City of Stockton which establishes the general framework for the government organization, authority and operations
City Council	Unless otherwise specified, includes the six elected council members and the mayor of the City of Stockton
City Manager	The chief executive officer hired by the Stockton City Council to administer day-to-day operations of the City
Closed Session	A meeting of a legislative body outside of public review to discuss specific actions permitted by the California Government Code
Council Member	Any of the six elected members of the Stockton City Council; does not include the mayor
Council Policy 100-6	Stockton City Council policy related to Closed Council Sessions and confidentiality of closed session information and that unauthorized disclosures are violations of the Brown Act
DOQ	Depending on qualifications
EEO	Equal Employment Opportunity employer

FLSA	Fair Labor Standards Act, which includes employment status requiring overtime pay
LCC	League of California Cities; an association comprised of and representing the cities in California
Mayor	The current mayor for the City of Stockton elected in November 2012
mayor	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
Section 54963 G.C.	Section of the Brown Act in the California Government Code related to the disclosure of confidential information from closed session meetings

Background

The Ralph M. Brown Act was originally adopted in 1953 to assure the public has access to information on the actions under consideration by public legislative bodies and that the actions are conducted in open public forums. In the initial legislation, and through amendments adopted over the years, provisions were included to permit the legislative bodies to meet in closed session for very specific purposes. These included personnel matters, labor negotiations, existing litigation, potential litigation and real property negotiations. The closed sessions are not open to public participation, but the general topics to be discussed must be publicly announced in advance. Also, if any final action is taken by the legislative body in closed session, the action and any vote must be reported to the public in an open meeting immediately following the closed session.

As it relates to confidentiality of closed session meetings, California Government Code Section 54963 states:

“(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Sections 54956.7... to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, “confidential information” means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief...

- (2) Disciplinary action against an employee...*
(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.
(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section."

The California Attorney General's Office has issued opinions related to the penalties and remedies available for violations of the Brown Act. Criminal misdemeanor penalties are allowed for certain violations involving a deliberate intent to deprive the public of information to which the public is entitled. Civil penalties can be granted by a court, or the action taken by the legislative body can be voided. These remedies, however, pertain to an action that had been taken by the legislative body, not the release of confidential information which is the subject of the 2013-2014 Grand Jury's investigation.

In the course of the investigation, the Grand Jury determined that the sequence of events during the recruitment of the city manager had significant bearing on the review of information and identification of findings. Based on information provided from materials received and sworn testimony from witnesses, the following are some significant milestones related to the 2013 city manager recruitment process:

- | | |
|-----------------------|---|
| August 19, 2013 | A special City Council meeting was held to interview, in open session, three firms proposing to provide executive recruitment services for hiring a new city manager. |
| August 28, 2013 | A contract was entered into between the City of Stockton and Mathis Consulting Group to provide executive recruitment services for the city manager position. |
| September 18-20, 2013 | League of California Cities Annual Conference was held in Sacramento, California. |
| October 10, 2013 | City Council held a special Closed Session meeting at the City of Stockton Human Resources Department offices to interview six candidates for the city manager position. Two finalists were selected. |
| November 1, 2013 | This was advertised as the final filing date for submitting applications for the city manager position. |
| November 2, 2013 | City Council held a special Closed Session meeting at the Stockton Hilton to interview the two finalists for the city manager position. A final candidate was selected but the name was not released. |

November 5, 2013	City Council held a Closed Session meeting prior to the regular City Council meeting to include review of employment terms with the final candidate and approve the individual's appointment as city manager.
November 19, 2013	The City Council met in closed session to discuss with the City Attorney options related to the Mayor's release of confidential closed session information on November 5, 2013.
November 22, 2013	The City Council approved a resolution admonishing Mayor Anthony Silva for his conduct in disclosing confidential information from a Closed Session meeting and referred the matter to the San Joaquin County Civil Grand Jury.

Reason for Investigation

The Stockton City Council requested the City Attorney to provide options in dealing with the current Mayor's release of information from a closed session meeting to the public without City Council authorization, as required by the Brown Act. On November 22, 2013, the City Attorney provided options that included preparing a resolution of admonishment and referring the matter to the San Joaquin County Civil Grand Jury. The City Council voted in open session to authorize the preparation of the admonishment resolution and to refer the Mayor's actions to the Grand Jury. The City Council complaint was issued on that same date.

On December 3, 2013, the Stockton City Council voted five to two to adopt Resolution 2013-12-03-1502 which admonished Mayor Anthony Silva for an unauthorized release of confidential information from a closed session meeting and for violation of Council Policy 100-6.

Method of Investigation

Materials Reviewed

- Ralph M. Brown Act, California Government Code Section 54950 *et seq*
- Assembly Bill 1234
- "Open & Public IV: A Guide to the Ralph M. Brown Act", 2nd Edition, Revised July 2012, published by the League of California Cities
- September 2013 Supplement to the "Open & Public IV: A Guide to the Ralph M. Brown Act", 2nd Edition, Revised July 2012
- California Attorney General's Office 2003 handbook related to the Ralph M. Brown Act

- Training materials for new council members used by Stockton City Attorney
- City of Stockton Council Handbook
- Revised Stockton City Council Policies 100-2, 100-3 and 100-6 adopted December 2013
- E-mails to and from elected and appointed city officials
- Three city manager recruitment brochures
- Stockton City Charter
- Professional Services Contract between City of Stockton and Mathis Consulting Group dated August 28, 2013
- Press releases related to selection of new city manager
- Proposed employment term sheet from David Garcia
- Stockton City Council Resolution 2013-12-03-1502 admonishing Mayor Anthony Silva
- City of Stockton Administrative Directive IT-04 related to “E-mail access and acceptable use”
- City of Stockton Administrative Directive IT-07 related to “Internet access and acceptable use”
- City of Stockton Administrative Directive IT-09 related to “Information technology security program”
- City of Stockton Administrative Directive HR-40 related to “Fingerprinting of applicants, employees, and volunteers applying for and holding positions with the City of Stockton”

Interviews Conducted

- Stockton Council Members
- Stockton City Attorney
- Recruiter for the city manager position
- Two members of the public
- Five City of Stockton employees

Discussions, Findings and Recommendations

1.0 Release of Confidential Closed Session Information

All members of the City Council and the Mayor received training on the requirements of the Ralph M. Brown Act. Upon election, the City Attorney briefs each member on various requirements related to their elected positions. This includes providing and discussing the League of California Cities’ (LCC) publication, *Open & Public IV: A Guide to the Ralph M. Brown Act* which includes the confidentiality of information disclosed and discussed in closed session. The briefing also includes a discussion of the Stockton City Council’s policies, of which Policy No. 100-6 “Closed Council Sessions”, Section C, very clearly states that all closed sessions are confidential and disclosure of confidential information is a violation of the Ralph M. Brown Act and City Policy. City

Council Members and the Mayor received a copy of the *Council Handbook* which contains the City Council policies.

In sworn testimony, all Council Members and the Mayor indicated they had also received other training on the Brown Act either through the LCC or other organizations. Further, Article 2.4(d) of AB 1234 requires all elected City officials to take ethics training which includes a review of open government laws, including the Brown Act. The Grand Jury reviewed the "Public Service Ethics Education Online Proof of Participation Certificate" signed by each of the Council Members and the Mayor in which they certify that they have reviewed the content of the entire online AB 1234 course. The Grand Jury found no acceptable excuse for any member of the City Council or the Mayor not knowing about the requirement for confidentiality of information discussed in all closed session meetings.

Individuals who had any involvement in the recruitment process testified that they were repeatedly advised that the names of the candidates for the position must be kept confidential. The only name that could be publicly released would be the person actually hired after City Council approval. This warning came from the recruiter and the City Attorney to make potential applicants feel comfortable about applying. Disclosure could expose the City to financial liability if an applicant was terminated from their current position as a result of the information released. All Council Members and the Mayor understood this potential exposure.

The basis for the complaint to the Grand Jury was that on November 5, 2013, local news media were provided a press release indicating that David Garcia had been hired as the City of Stockton's new City Manager. The information was provided by the Mayor to television station KCRA Channel 3 that morning. Other news media were also provided with the information early that afternoon by the Mayor. He authorized the press release to be issued to other local news media at approximately 5:30 p.m. that day. The press release indicated that contract negotiations were complete and the new city manager would begin work in Stockton on December 16, 2013. It also stated the contract would be for five years at an annual salary of \$250,000. All of the information was based on discussions held during Closed Session meetings, and at no time did the City Council authorize (as required Section 54963(a) G.C.) the disclosure of the information. All persons present in the Closed Session meeting indicated that after it was known that Mr. Garcia's name had been released to the press, it was clear to them that the Mayor was the source. It was stated that the closer it came to 5:30 p.m. (the normal ending time for closed session meetings before a regular City Council meeting) the more agitated the Mayor became, pressing for a final action to hire Mr. Garcia and to approve the employment terms the candidate wanted.

November 5, 2013, was not the first incident of confidential closed session information being disclosed. Council Members were approached shortly after the October 10, 2013, Closed Session meeting with inquiries and comments about the actions taken during that session. These ranged from why certain Council Members did not vote in favor of specific applicants to the need for a specific ethnic candidate to be selected. An e-mail

was sent to one Council Member from a Stockton Firefighters' Association leader. The individual indicated his support of the Mayor's preferred candidate and wrote, "I'm checking the others, but I've been told we are down to two." The Council Member responded by saying that it was "closed session stuff and I can't divulge that info." Another Council Member indicated he or she had received a text from a leader within the Stockton Police Officers Association who indicated the names of the two finalists and that the Association was in support of the Mayor's preferred candidate. Other Council Members were contacted by members of the public by phone, in person or by e-mail regarding the vote taken during the October 10, 2013, Closed Session meeting or regarding the two finalists selected. It is the observation of the Grand Jury that the majority of those individuals identified as having contacted Council Members on this issue, are known to be supporters of the Mayor on other issues. Clearly, closed session information about the recruitment had been divulged, yet it was not discussed by any Council Member, City employees or members of the public with other Council Members or with the City Attorney in an effort to stop the disclosures.

The only time the City Council authorized the release of information regarding closed session actions was after the November 2, 2013, meeting. At that meeting, the Council drafted and approved a press release related to their actions that indicated the Mayor was "...authorized to negotiate a contract with a candidate for city manager." The release appeared in the November 3, 2013, edition of *The Record*.

City staff was also part of the information disclosure scenario. As previously indicated, union representatives knew the names of the finalists. Three Council Members indicated that they were "lobbied" by City staff to support their own preferred applicant. Staff members indicated the Mayor had mentioned to them information about the final candidate prior to the November 5, 2013, Council meeting. It was determined that a volunteer working for the Mayor had a copy of the draft press release naming Mr. Garcia prior to the City Council's Closed Session meeting on November 5, 2013.

The California Attorney General's Office has issued opinions regarding violations of the Brown Act. These included the topics of criminal penalties and civil remedies for violations. The information reviewed by the Grand Jury was limited to decisions made by a legislative body in violation of open meeting laws where either required information was not provided to the public, or an action was taken without the required notifications and opportunities for public comment. The remedy outlined in the Brown Act for violations, is to expose the missteps of elected officials in the hope they will not be repeated.

Findings

F 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).

F 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.

F 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.

F 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.

2.0 Recruitment for Stockton City Manager

The Grand Jury discovered that the recruitment for the city manager position was not conducted in a well-managed and controlled manner. There was consensus among those involved in the process that problems existed. Statements such as: it was not the professional level of services that we would have liked; there could have been better coordination among the parties; there seemed to be a lack of structure; and the recruiter lost control of the process were not uncommon. Most agreed the time allotted for the recruitment was very tight which may have impacted the process.

Most City Council Members had no previous experience in the recruitment of management executives in either the public or private sectors. Some of the Council Members indicated this lack of experience made them unsure of what their role could be or how the process should work. Various Federal and State laws, including the Brown Act, place specific requirements and restrictions on hiring public employees. While the lack of experience is not unusual among elected city officials, this emphasizes the importance of having knowledgeable individuals involved in the recruitment process. Some members of Stockton's management team had the experience to conduct a professional city manager recruitment. Yet, the City Council marginalized their involvement to scheduling meetings, handling the recruiter or reviewing documents.

The recruiter was selected by the City Council from among three firms that submitted a proposal to conduct the city manager recruitment. One of the reasons for the selection was the recruiter's prior work with the Stockton City Council in team building sessions. To coordinate the recruitment process with the City Council, the Mayor appointed the Vice-Mayor and a Council Member to serve with him on an ad hoc committee to work with the recruiter. The actual involvement of this committee during the process was unclear from the Grand Jury's investigation and the materials reviewed. It is clear that the Mayor took a strong personal role in the process by heading public meetings the recruiter should have managed, arranging meetings with members of the public, and following the recruiter as he met with individuals in the community.

The Grand Jury reviewed three versions of the "official" recruitment brochure for the city manager position. City staff and the recruiter were asked to provide the Grand Jury with the brochure they used as the official version sent to interested applicants. The Mayor also provided a copy which he indicated was the official recruitment brochure. None of the three versions matched completely. The Grand Jury also noted that the official filing deadline for applications was November 1, 2013, more than three weeks after the City Council had narrowed its selection to two final candidates. The City staff-provided copy had the most discrepancies among the three. There was additional text compared to the other versions: the wording under the "Ideal Candidate" section was substantially different; there was no Master's Degree preference indicated under qualifications; the benefits for vacation and holidays differed from the other versions; and there was no EEO employer statement, rather an FLSA exemption clause was used. The version provided by the Mayor differed in that it listed the Annual Salary as \$240,000 - \$255,000. Both other versions stated the annual salary to be \$240,000 minimum (DOQ). The minimum salary statement in these two versions was also contained in on-line advertisements for the position.

The salary became a major point of contention during the appointment process. The Grand Jury learned some Council Members believed the salary advertised was the same as that paid to the retiring city manager. Others felt the advertised salary included what Mr. Garcia was requesting. The lack of certainty about the official salary range contributed to the problem of agreeing on what were acceptable employment terms.

A number of individual interviews were held between some of the Council Members and some of the applicants. Arranged at the suggestion of the recruiter, most were held during the LCC Annual Conference in Sacramento in mid-September. Not all of the City Council Members attended the conference, nor were all of the applicants present. This prevented the entire City Council from getting a complete picture of all of the applicants. Information obtained from applicants during these meetings was not shared among the Council Members. Two City Council Members who did not attend the LCC Conference, met with two of the candidates separately after the two finalists were selected. Again, there was no sharing of information about what was learned from the separate meetings. Based on information from surveys sent to major California public sector recruitment firms, it is not common practice to have these separate individual meetings between council members and candidates. When they are requested, every effort is made to assure all council members meet with all candidates. These meetings usually involve just the few finalists.

The Mayor was very involved in the recruitment process to the extent that many of the Council Members felt he was exerting undue influence on the process and was being given too much attention by the recruiter. Section 1200 of the City Charter, which is the only section dealing with a city manager recruitment, states in part:

"The Mayor shall nominate one (1) or more candidates for Council consideration for appointment to the position of City Manager. The City

Manager shall be appointed by the Council for an indefinite term and shall not be removed from office except by a vote of a majority of the members of the Council; ... "

While the Mayor has expressed the opinion that he is given the authority to select the city manager, the Charter's language clearly states that the mayor nominates a candidate for city manager but the final decision rests with the entire City Council. The Mayor believed the Council's vote at the November 2, 2013, Closed Session meeting was the approval to hire Mr. Garcia and that contract negotiations were merely a technicality. However, a majority of the Council Members felt that their action was only to offer the city manager position to Mr. Garcia. A final decision to hire would follow contract negotiations since no terms of employment had been discussed to that point. Since no reportable action was announced following the November 2, 2013, Closed Session meeting it is impossible for the Grand Jury to determine what occurred during that meeting.

Another aspect of the recruitment the Grand Jury found disturbing was the employment contract negotiations between the City Council and Mr. Garcia. At the November 2, 2013, meeting there was a general discussion that contract terms with Mr. Garcia would be similar to those provided to the retiring City Manager. The recruiter indicated to the City Council that he felt these terms would be acceptable to Mr. Garcia. At this point the common practice in a city manager recruitment is for the recruiter to act as the intermediary between the City and the candidate on contract terms. This avoids a potential direct negotiations conflict between potential employer and employee. However, the Mayor proposed that he and the City Attorney would handle the negotiations and the recruiter was removed from the process. The recruiter had contacted Mr. Garcia and advised that his terms of employment should be sent to the City. During the November 5, 2013, Closed Session meeting, the City Council reviewed Mr. Garcia's proposed terms of employment. They indicated their dissatisfaction with the differences between the prior City Manager's contract and Mr. Garcia's proposed terms, particularly with the annual salary amount, new elements regarding additional retirement benefits and additional travel costs to Stockton. On two occasions the Mayor left the closed session meeting room to have a separate telephone conversation with Mr. Garcia regarding the proposed terms of employment. The City Attorney accompanied the Mayor on both occasions. Mr. Garcia was told by the Mayor that if he would accept the Council's offer, it would be made up to him later. After the two telephone conversations the Mayor announced to the full City Council there would not be an agreement on contract terms between the City Council and Mr. Garcia.

Findings

F 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.

F 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.

F 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.

F 2.4 The series of personal meetings between some Council Members and some applicants resulted in unfair advantages for applicants involved in the meetings.

F 2.5 Some Council members had information from personal meetings with applicants that they did not share with other Council Members.

F 2.6 The lack of experience with executive recruitments for most Council Members was a factor in the recruitment's failures.

F 2.7 The mishandling of contract negotiations may have been a substantial factor in the failure to reach agreement on employment terms.

3.0 Access to Confidential Information by Mayor's Volunteers

In the course of its investigation the Grand Jury learned that the current Mayor had a number of volunteers working for him at Stockton City Hall. Due to issues of the release of confidential information and potential liability exposure for the City, the Grand Jury determined it should investigate the Mayor's volunteers' access to City Hall computers.

The Grand Jury's investigation revealed that there have been seven to eight individuals working for the Mayor as volunteers performing various functions such as preparing certificates and attending meetings. All have access to City Hall computers. The Grand Jury could not determine if the volunteers have access to confidential e-mails or attorney-client files. The Mayor was unable to name his volunteers and did not provide those names to the Grand Jury when requested to do so. The Grand Jury received limited information about the supervision of these volunteers while in City Hall. The Mayor or the Mayor's Executive Assistant may not always be present while the volunteers are in City Hall, nor do City employees supervise them.

However, a Mayor's volunteer had access to the draft press release being prepared for possible release on November 5, 2013. This draft had confidential information on the finalist's name and employment terms based on closed session discussions.

According to City employees, volunteers do not go through an employee orientation process where they would have been advised of the City's Information Technology policies and guidelines regarding e-mails, internet access, and security (Directives Nos. IT-04, IT-07, and IT-09). New employees are required to review and sign an

acknowledgement that they have read and understood the directives and policies. City staff is not always aware of who is serving as a volunteer for the Mayor. Staff escorts the volunteer to the Mayor's office based on their statement that they are working for the Mayor. Most volunteers in other City Hall departments are vetted through established community programs and have very limited access to City Hall computers and files in the course of their activities.

The City has a potential liability exposure if a volunteer using a City computer accesses confidential information and releases that information to the public. There are no controls preventing an employee with confidential access from providing an unauthorized volunteer the passwords or other codes to access confidential information, except for the training and acknowledgements of the Administrative Directives.

Findings

F 3.1 The Mayor has volunteers working out of the Mayor's City Hall office with unknown levels of supervision.

F 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.

F 3.3 The City of Stockton has potential liability exposure from volunteers accessing and releasing confidential information obtained through City Hall computer access.

Recommendation

R 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.

Conclusion

The release of confidential information from closed sessions was persistent throughout the recruitment for Stockton's city manager position. Even before the City Council interviewed the recruiter's short list of six candidates, names were known in City Hall and among a limited number of the public. Shortly after the October 10, 2013, Closed Session meeting when the City Council selected two finalists for further consideration, certain members of the public knew what the votes were in the closed session, who the finalists were, and very clearly who the Mayor's choice was for the city manager position. The people contacting Council Members about who they should vote for have supported Mayor Silva. All of the Council Members were aware of the confidential leak – yet took no steps to address it. While there was no legal requirement for the Council

Members to take action, there was an ethical obligation. Are they not as culpable as the Mayor?

The Grand Jury believes there is an ongoing culture in Stockton City Hall, among elected and appointed officials and city employees that ignores the need for confidentiality when it suits their personal advantage. Details of closed session labor negotiations are known by employee unions before the next negotiation session. Details of sensitive financial negotiations mysteriously are known by the public and the media. Liability, unfair decisions, financial impacts and public ridicule are all potential results from violations of the Brown Act's confidentiality requirements. Changing that culture is not something that can be legislated or adjudicated. Change must come from a dedicated commitment from ALL elected officials and city employees. **The entire City Council needs to stop pointing fingers and start showing the public that it is serious about confidentiality requirements!**

The release of confidential information by the Mayor potentially exposed the City to substantial financial liability, subjected the City to ridicule and lowered public confidence in the City's legislative body. The Grand Jury has no authority to recommend or to take legal action against the Mayor. The Government Code provides no additional criminal or civil judicial redress for the Mayor's actions.

A professionally conducted recruitment of a city manager is a process that works as confirmed by the hundreds of recruitments that occur each year in California and throughout the United States. The Stockton City Council left those on staff with experience in executive recruitment out of the process. It hijacked a professional recruiter's efforts to the point the recruitment was not effective. Why did the elected officials not leave the details of a matter as important to a community as hiring a city manager to those with experience? The Council's principle role during a city manager recruitment is the evaluation of the candidates and the selection of a finalist. That role is important enough as the focus of their energy.

Any action at this point rests solely with the citizens of the City of Stockton. This is not an issue that can be solved through a legal process, it is a political issue. **How much more of these detrimental activities will the citizens of Stockton tolerate?**

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.

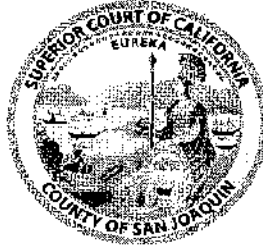
The Stockton City Council shall respond to each Finding and Recommendation contained in this Report.

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 a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at: grandjury@sjcourts.org.

San Joaquin County Grand Jury



Tracy Municipal Airport: *Development vs. Safety Zones*

2013 - 2014 Case No. 1213

Summary

The 2013-2014 Grand Jury received a complaint alleging a secret and illegal business agreement among a local developer, City staff, and the Tracy City Council. Allegations included a proposal to shorten the Tracy Airport runway lengths to accommodate increased development by a local developer in the airport safety zones. It was alleged that City staff did not provide complete and accurate reports regarding the impacts of changes to runway lengths for the City Council to reach an informed decision. The complainants presented information about proposed arrangements between a local developer and the Airport fuel sales operator related to payments owed the city which appeared to be connected to a series of actions requested by the developer.

The Grand Jury investigated the complaint, including whether there was a *quid pro quo* between City Council actions and the local developer's actions, and found areas of concern. There were weaknesses in the staff's fact-finding and reporting related to the Airport and the neighboring development. While the City Council actions did not result in the benefits sought by the local developer, the Grand Jury has made recommendations to strengthen the City of Tracy's associated internal policies and procedures.

Glossary

AAM	Airport Agreement Memorandum, written by a local developer dated April 26, 2013, requesting the City take certain action related to the Tracy Airport
ALP	Airport Layout Plan, depicts existing airport facilities and proposed developments as determined from a review of forecasts for facility requirements and its alternatives analysis
AMP	Airport Master Plan, a comprehensive long range plan that directs and authorizes actions to be permitted on airport property
ALUC	Air Land Use Commission for San Joaquin County which regulates land use planning in the vicinity of airports
ALUCP	Air Land Use Commission Plan for San Joaquin County that establishes planning boundaries and land use compatibility standards for airports
Brown Act	The Ralph M. Brown Act (Government Code Sections 54950 <i>et seq.</i>) regulating the conduct of public meetings and related public information requirements
City Council	The four elected City Council members and the separately elected mayor of the City of Tracy
COG	San Joaquin County Council of Governments, a regional body that addresses regional issues such as planning, economic and community development
County	San Joaquin County
ESP	Ellis Specific Plan, identifies the specific permitted uses, density and location of the development north-west of the Tracy Airport
FAA	Federal Aviation Administration
FFA Airport Classifications	Federal designations for airport based on runway length categories
General Plan	City of Tracy's land use document describing the proposed overall long term development for the City
Mayor	Separately elected Mayor of the City of Tracy

NOTAM	Notice to Airmen provides information of changes to the flight operations at an airport
Quid pro quo	Something for something; receiving an equivalent in return
Safety Zones	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
Third Party Payment	A payment made by one party on behalf of another party's contractual obligation
Tracy Airport	City of Tracy Municipal Airport
Turlock Air Center	Fuel sales operator under contract with the City of Tracy

Background

In 1947 the United States Government's War Assets Administrator deeded the Tracy Municipal Airport to the City of Tracy. The deed states in part:

"(1) That insofar as is within its powers and reasonably possible, the party of the second part and all subsequent transferees, shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration or growth of any structure or other object there on, which use would be a hazard to the landing, taking off or maneuvering of aircraft at the airport or otherwise limit the usefulness as an airport."

Tracy Municipal Airport has 166 acres currently being used for aircraft parking, taxiways and runway space. An additional 144 acres are undeveloped. There are two active runways at the Airport, Runway 8/26 and Runway 12/30. The Airport sells aviation gas and jet fuel. Runway 12/30, the longer of the two, is currently designated as being 4,000 feet in length resulting in a "Medium Airport" designation by the FAA. An airport with a runway less than 4,000 feet is designated as a "Small Airport". A significance of the difference is the size and permitted development in the safety zones at both ends of the runways and the benefits that would accrue to the local developer.

The Council of Governments (COG), acting as the Airport Land Use Commission (ALUC), is the agency that oversees airport planning in San Joaquin County. The Airport falls under the guidelines of the Federal Aviation Administration (FAA).

The City of Tracy operates under a Council-Manager form of government. The City Council appoints the City Manager, who is the Chief Executive Officer in charge of all staff. The City Council has five elected members, a separately elected Mayor and four

City Council Members. The City Council has general oversight over the Airport with staff providing direct supervision over its operations. Large development projects, such as the Ellis Specific Plan (ESP), go through a staff generated review process before review and approvals by the City's Planning Commission and City Council. The extent of involvement by the Tracy City Manager and other executive management varies by the individual development.

Reason for Investigation

The Grand Jury initiated this investigation based on a complaint filed by citizens in Tracy alleging a secret and illegal agreement between City leaders and a local developer. Further Citizens in Tracy had voiced their concerns about these allegations during a City Council meeting in December 2013. The Grand Jury investigation focused on the following issues related to the complaint:

- Whether or not there was a secret and illegal written contractual agreement between the City and a local developer related to issues described in an unsolicited April 26, 2013, Airport Agreement Memorandum (AAM) sent to City staff.
- Whether or not any staff actions were taken in regard to the contingencies requested in the AAM.
- Whether or not any City Council actions were taken in response to the contingencies requested in the AAM.
- Whether or not airport operations were in compliance with contractual obligations.

Method of Investigation

The 2013-2014 Grand Jury reviewed documents and conducted interviews.

Materials Reviewed

- Documents provided by complainants
- Tracy Airport Master Plan
- United States Government 1947 deed to Tracy Airport
- Aerial map of Tracy Airport
- City Council meeting and minutes, January 2013 through February 2014
- Airport Agreement Memorandum
- San Joaquin County Councils of Governments (COG) staff report regarding the Ellis Specific Plan (ESP) amendment
- Correspondence between City staff and a consultant
- FAA documents specific to Tracy Airport, including safety zones, classifications and grant qualifications

- Caltrans documents specific to Tracy Airport, including safety zones and classifications
- Ellis Specific Plan (ESP)
- City of Tracy website
- Turlock Air Center e-mail dated February 4, 2014, to City staff and City Council
- Notice to Airmen (NOTAM) information related to runway length change issued on January 19, 2012

Interviews Conducted

- A Complainant
- City Council Members
- Current and former City employees
- Local Tracy area attorney
- Local developer

Discussions, Findings and Recommendations

1.0 Staff Reports Provided to the City Council

Timely and accurate information is paramount for City Council Members and the public to fully understand the issues facing the City and to ensure that enlightened decisions are made. The 2013-2014 Grand Jury found that the City staff failed to provide City Council Members important information related to the Tracy Airport. This information would have given an accurate picture of the repercussions for making changes to runway lengths at the airport.

At the June 18, 2013, City Council meeting staff provided inaccurate information to the City Council on the grant requirements pertaining to the airport's runway lengths. Staff informed the City Council that reducing Runway 12/30 to under 4,000 feet would have no effect on future grant funds to the City. Staff had discussions with the FAA to ensure the City's plans to change the runway length were consistent with the approved Tracy Airport Master Plan (AMP). Staff further informed the City Council that based on discussions with the FAA regarding design parameters, safety issues, etc., that Runway 12/30 could be reduced in length to 3,997 feet. The complainants provided information that said the FAA had advised the City that shortening the runway to less than 4,000 feet was inconsistent with FAA grant requirements currently in place for the Airport, and could jeopardize significant future grant monies to the City for runway improvements at the Airport. An FAA Airport Compliance Specialist responded to a citizen's e-mail dated October 10, 2013, stating that the FAA did not support the shortening of Runway 12/30. The specialist also stated that shortening the runway could not be done without proper justification and FAA approval. As of October 10, 2013, the FAA's San Francisco office had not received any notification related to a change to Runway 12/30 from the City of Tracy.

From testimony and evidence reviewed, the Grand Jury was not able to definitively determine if City staff deliberately provided incomplete and inaccurate information to the City Council or if it was an oversight. As further discussed below, the change in Runway 12/30 length would have financially benefited a local developer who had approved plans for a project in the airport's safety zones. This connection was not specifically mentioned in any related staff reports to the City Council. Also, a number of the proposed actions for the City Council's consideration directly related to the AAM's contingencies – another fact not revealed in staff reports. The Grand Jury was not able to determine if the additional information would have changed the Council Members' decisions, but it did leave crucial pieces of the puzzle out of the public's eyes.

Finding

F 1 City staff provided inaccurate and incomplete information to the City Council which could jeopardize the eligibility for the City receiving future grants.

Recommendation

R 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.

2.0 Business Proposal to the City

It was alleged that City Council and staff had entered into a secret and illegal agreement with a local developer related to changes in the Airport's runway lengths. The investigation revealed the developer offered to pay a total of \$425,000 to the City between 2013 and 2022 in exchange for the City meeting the contingencies listed in the developer's AAM. The investigation reviewed the AAM's requested contingencies from the City, and whether staff or City Council had entered into any agreement with the local developer without following City policies. Although this investigation discovered no evidence to substantiate the Complainant's allegations, there were, however, actions taken by the City directly related to the contingencies requested in the unsolicited AAM. The extent to which the various staff recommendations and actions were part of specific response to the AAM's requests, or were part of a general development project review was addressed by the Grand Jury due to the lack of minutes, notes or other documentations of the discussions between City staff and the local developer. However, testimony indicated that implementation of the contingencies in the AAM could have resulted in substantial financial benefit to the local developer from changes in the development within the safety zones.

Contingencies A and B in the AAM requested that the City revise the Airport Layout Plan (ALP) and submit it to the FAA reflecting Runway 12/30 as a short general aviation

runway when adopting an update of the Tracy Airport Master Plan, and physically re-mark Runway 12/30 to a maximum length of 3,996 feet.

Tracy City Council and staff took the following actions regarding the Tracy Airport:

- On June 6, 2013, staff sent an e-mail to a consulting airport engineer requesting the airport runway length be changed to 3,997 feet on the grant application to the FAA for re-pavement. The engineer replied to staff on the same date that the revisions had been made on the application.
- On June 18, 2013, staff recommended to City Council that Runway 12/30 be reduced from 4,002 feet to 3,997 feet in length. Staff informed City Council that the runways at the airport were being completely reconstructed and brought up to current safety standards. The Runway 12/30 through the pavement design process would be 3,997 feet in length when completed. Staff also informed City Council that the runway changes would alter the possible land uses surrounding the airport:
- On the same date, City Council voted unanimously to reduce Runway 12/30 to 3,997 feet and authorized staff to submit an application to the FAA requesting funding for the repaving of the runways at the airport, including Runway 12/30, to a length of 3,997 feet.
- On July 1, 2013, staff wrote to the COG that the City was in the process of updating the ALP to reflect Runway 12/30 at 3,997 feet in length.
- On July 11, 2013, the local developer submitted an application to the City to amend the ESP to be consistent with a shortened runway.
- On August 6, 2013, City Council approved a contract with an airport consultant to update the ALP to reflect Runway 12/30 to under 4,000 feet.

On December 1, 2013, the fuel sales operator at the airport wrote to staff that he had agreed to support the City's decision to keep Tracy Airport as a 'boutique airport' in return for revisions on his business agreement with the City. The fuel sales operator said in his letter to the City that he was aware of the January 19, 2012, NOTAM filed by the City alerting pilots that Runway 12/30 was under 4,000 feet in length, and this could potentially eliminate the jet fuel business at the Airport if this facility was officially changed to a small airport classification by the FAA.

Contingencies C and E in the AAM requested that the City notify the ALUC of the revised ALP, reflecting the length change to Runway 12/30, and to amend the ALUCP to reflect Runway 12/30 as a short general aviation runway if the ALUC did not agree to the amendment, and notify the ALUC of the City's intent to override the ALUCP and proceed accordingly with the override process. The amendment to the ALUCP would have allowed a change in the ESP development. In addition the City was to generate and

process amendments to the ESP and the City's General Plan to reflect a safety compatible zone consistent with the 2011 California Transportation Safety Compatibility Zone designated for a short general aviation runway, and reflect zoning development in these areas accordingly.

Tracy City Council and staff took the following actions in regards to the Tracy Airport:

- On July 1, 2013, staff notified COG that the City was in the process of updating the ALP to reflect Runway 12/30 at 3,997 feet in length.
- In August 2013, the developer submitted an ESP amendment to the ALUC with higher density building proposed in the airport's safety zone.
- On September 26, 2013, COG acting as the ALUC, ruled that the amendment to the ESP was inconsistent with the 2009 ALUCP.
- On October 15, 2013, City Council requested staff to research and return with information for its review as to what the override process for the ALUC decision would entail, and to schedule this issue for a meeting in early 2014. To date, the City has not placed this issue on the City Council agenda for public hearing and vote.

Contingency D in the AAM requested that the City set the fuel flowage fee at no less than \$0.07 per gallon, reimbursed to the local developer.

The Tracy City Council took the following action: On June 18, 2013, the City Council approved an amendment revising the fuel flowage fee to a flat \$0.07 per gallon on all aviation fuel sold at the airport by the contracted fuel sales operator.

The AAM requested the City meet contingencies listed in exchange for a financial commitment by the developers company to the City over the next ten years. The developer stated the following:

"We initially committed to funding an Airport shortfall for five years, however we have adjusted that commitment based on recent negotiations with the parties. There are a few important aspects that need to be addressed in the agreement ..."

On June 19, 2013, a local developer drafted a \$50,000 check to the City of Tracy "to assist Turlock Air Center" and "to create harmony at the Airport as well as create a positive neighborhood relationship with the pilots in that area". The check included a notation that it was for the 2009 ALUCP. The City accepted and deposited this payment.

These series of actions related to changes in the Tracy Airport runway length and designation were not individually illegal or necessarily inappropriate for the City to take. Cumulatively, however, they appear to result in a single beneficiary – the local developer of the Ellis Specific Plan. The end result of the actions supporting the AAM's

contingencies was not made known to the public through staff reports or public meetings. The Grand Jury is not making a determination on the appropriateness of the actions, but is concerned about the perception of collusion between the City and the local developer, and the lack of transparency to the public.

Findings

F 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.

F 2.2 City Leaders did not approve any amendment to the ESP as requested by the local developer.

Recommendation

R 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.

3.0 City Acceptance of Third Party Payments

The City of Tracy accepted and deposited a check from a local development company, in the amount of \$50,000. The check was identified as an initial payment for the fuel sales operator's contractual debt to the City. When the check was received, City staff and representatives of the City Attorney's office met to discuss what to do with the check because staff was not aware of what actions should be taken as a result of receiving the check. The Grand Jury was not able to learn of the result of that discussion.

It was determined that the City currently has no policy of how to handle a third party payment for an obligation to the City. In this specific instance, there is no indication that the payment was illegal or inappropriate. However, in light of the other actions taken by the local developer and the City the perception that it was part of a *quid pro quo* related to the changes in the Airport's designation is very strong.

Finding

F 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.

Recommendation

R 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.

4.0 Airport Classification and Future Development

The Ellis Specific Plan was originally approved by the City in 2008. In January 2013, the ESP was modified and approved by the City, with a specific number of housing units and commercial buildings permitted. The FAA airport classification has no effect on the total number of units agreed to be built under the specific plan. However, an airport's classification does change the allowable densities and locations of housing units and commercial buildings permitted to be built.

The FAA mandates specific sized safety zones based on an airport's designated classification, which is based on an airport's runway length. An airport with runways less than 4,000 feet in length is classified in the small airport category, a medium airport is 4,000 feet to 5,999 feet and a large airport is 6,000 feet or more. The protected safety zone size and requirements between a small and medium-sized airport are considerable and the types of developments allowed between these two classifications could be substantial.

In this specific instance the change from a medium airport to a small airport would have allowed changes to the ESP that could result in substantial financial benefits to the local developer. If the airport designation change was approved the overall change to the development project and any potential benefit to the City would need to be further reviewed by the City.

Finding

F 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.

5.0 City Review of Business Licenses

The City continued its contractual agreement with the airport fuel sales operator after becoming aware that the operators business license had become suspended by the State. Documents reviewed indicated that the fuel sales operator's business license had been suspended prior to approval of an amendment to the original agreement between the City and the operator on June 18, 2013. City staff was not aware of the license suspension at the time the amendment was being processed and approved by the City. Due to its non-compliance with contract requirements the operator had no legal authority to enter into the contract amendment, and the City had reason to void the contract at that time.

Subsequently, the City was advised that the suspension was made in error due to actions taken by the State agency in charge of business license compliance. On February 4, 2014, staff recommended the City Council adopt a resolution authorizing the City Manager to send a notice of termination to the fuel sales operator. The termination was based on numerous contract deficiencies which the operator failed to correct after due notice.

Finding

F 5 The City processed an amendment to the airport fuel operator's contract without checking the current status of the operator's State license.

Recommendation

R 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.

Conclusion

The Mayor and City Council are expected by the citizens they represent to require that their staff conduct thorough reviews of all information regarding City matters prior to making recommendations to the City Council. If staff and management are not held to a high standard of performance regarding their review process on all City matters, the degree of accuracy for the information provided to the City Council could be in question. This could lead to decisions being made by City Council that are based on flawed facts, as well as actions being taken that are not in the best interest of the citizens of Tracy.

This investigation discovered no evidence to substantiate the complainant's allegations of a secret and illegal business agreement having officially been entered into between a local developer, City staff, and the City Council. However, there is an alarming number of City actions taken directly related to the contingencies in the AAM that bring cause for concern. This investigation discovered that City staff and City Council in Tracy made recommendations and took actions that if completed would have met most of the contingencies listed in the AAM. This could have brought about changes to the Tracy Airport that would permanently affect its current uses. The Grand Jury questions whether these were a specific *quid pro quo* between the City and the developer for political or other considerations, or just a City attitude of knowing what the results would be but "wink-wink" we won't say anything.

There are many ways to deceive the public – don't give complete information; give partially accurate information; or turn a blind eye to the real issue and hope no one notices. These can be used by private enterprise, City staff or elected City officials. Whatever the reason, whatever the approach, there is a victim. In this case it is the City's credibility with its citizens.

City Council Members are the sentinels of the City and the citizens they represent. If the City Council and staff conducted City business as if they were in a glass room with unobstructed view by the citizenry, then transparency would not be an issue and the trust from the people they represent would be earned.

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).

This report was issued by the Grand Jury with the exception of one member of the jury. This juror was excluded from all parts of the investigation including interviews, deliberations, and the writing and approval of the report.

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.

Tracy City Council shall respond to all of the findings and recommendations 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 a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org

Appendices

Appendix A: *Airport Agreement Memorandum*

Appendix B: *Tracy Municipal Airport Photo*

APPENDIX A

AIRPORT AGREEMENT MEMORANDUM

TO:
FROM:
SUBJECT: AIRPORT ADVANCE FUNDING AGREEMENT
DATE: APRIL 26, 2013
CC:

We initially committed to funding an Airport shortfall for 5 years; however we have adjusted that commitment based on recent negotiations with the parties. There are a few important aspects that need to be addressed in the agreement between the City and

First:

would submit amounts to the City on the following dates:

Year	2013	June 1 st :	\$50,000
Years	2014-2017	Jan 1 st :	\$50,000 (each year)
Year	2018	Jan 1 st :	\$45,000
Year	2019	Jan 1 st :	\$40,000
Year	2020	Jan 1 st :	\$35,000
Year	2021	Jan 1 st :	\$30,000
Year	2022	Jan 1 st :	\$25,000

Second:

The Fuel Flowage Fee shall be 7 cents per gallon of all fuel pumped and or sold at TCY.

The gross Fuel Flowage Fee shall be paid directly to , without any offset, credit or administrative fee, monthly as a reimbursement.

Third:

The following language shall be part of the agreement between _____ and the City:

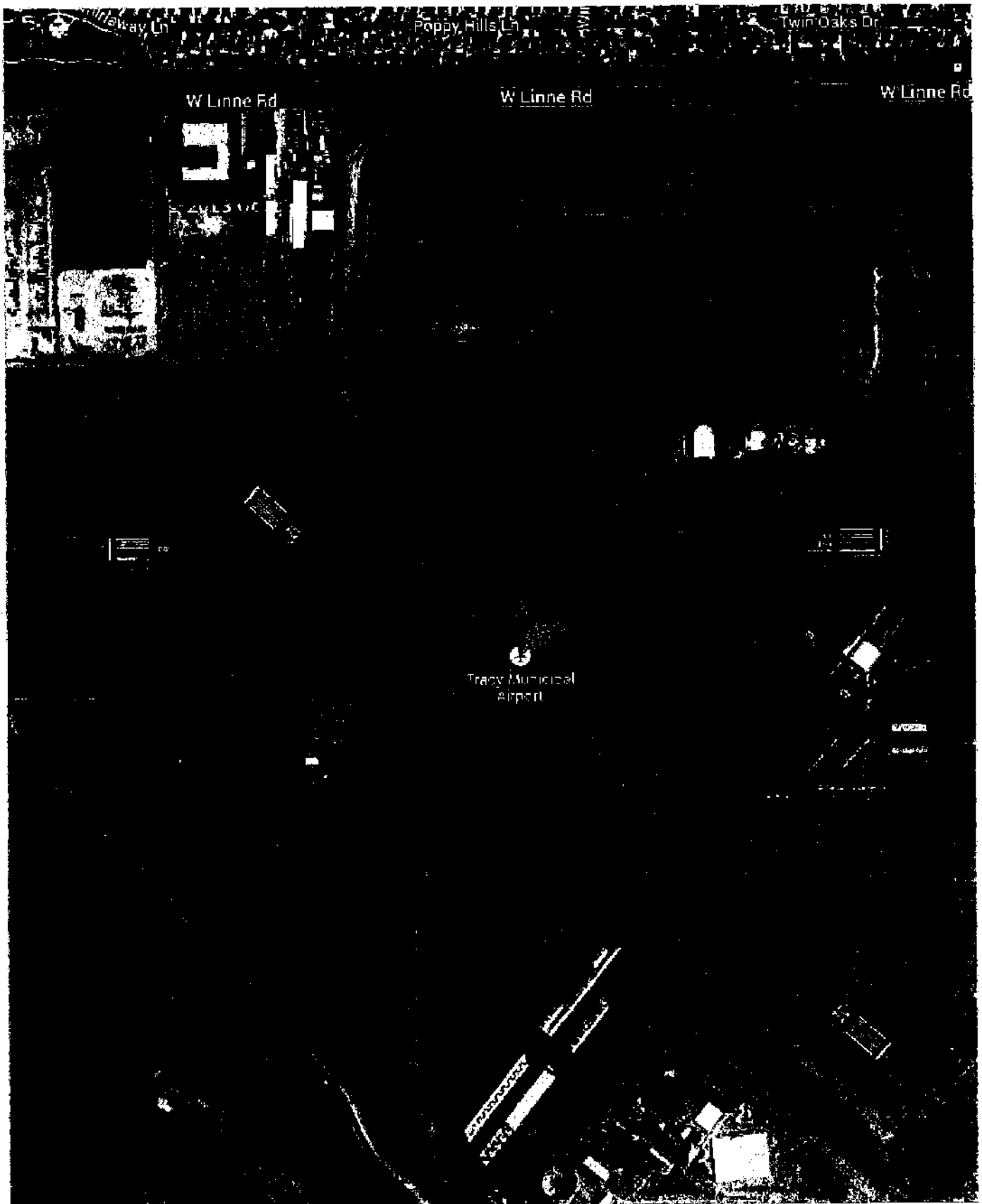
Contingencies.

- I. The obligations contained in this agreement are contingent upon the following events occurring on or before August 1, 2013:
 - A. The City of Tracy shall on or before June 30th 2013 revise the ALP and submit this ALP to the FAA showing runway 12/30 to be a maximum length of 3,996 feet, and shall physically re-mark the runway to conform to the new ALP depicting a runway 12/30 to be a maximum length of 3,996 feet.
 - B. The City of Tracy shall reflect runway 12/30 designated as a Safety Compatible Zone consistent with the 2011 California Transportation Safety Compatibility Zone for a Short General Aviation Runway (Short Runway) as attached when adopting/updating the Tracy Airport Master plan.
 - C. The City of Tracy shall notify the San Joaquin County ALUC on or before July 15, 2013 of the new information (revised ALP, reflecting change in 12/30 runway length) and request for Economic rationale or other rationale as agreed to amend the ALUCP to reflect runway 12/30 designated as a Safety Compatible Zone consistent with the 2011 California Transportation Safety Compatibility Zone for a Short General Aviation Runway (Short Runway), in conformance with the City of Tracy newly adopted ALP. The ALUC shall amend the 2009 ALUCP on or before November 30th, 2013 to reflect runway 12/30 designated as a Safety Compatible Zone consistent with the 2011 California Transportation Safety Compatibility Zone for a Short General Aviation Runway (Short Runway)), in conformity with the City of Tracy newly adopted ALP. If the ALUC does not amend the 2009 ALUCP on or before November 30th, 2013, at the request of _____ the City agrees it will notify the ALUC of the City's intent to override any ALUCP that does not reflect a Safety Compatible Zone consistent with the 2011 California Transportation Safety Compatibility Zone for a Short General Aviation Runway (Short Runway), and City will then proceed with override hearings per State Law.
 - D. The Fuel Flowage Fee shall not be less than \$0.07 per gallon reimbursed to _____ for all fuel pumped or sold at the Tracy Municipal Airport.
 - E. The City of Tracy agrees to generate and process amendments to the Ellis Specific Plan and City of Tracy General Plan to reflect a Safety Compatible Zone consistent with the 2011 California Transportation

Safety Compatibility Zone for a Short General Aviation Runway (Short Runway), and changes in zoning to TR Ellis in the General Plan from Commercial, and from Limited Use in the Ellis Specific Plan that are no longer in the Safety Compatibility Zone noted above, and to Zone any property that is in the Outer Approach/Departure Compatibility Zone to Commercial in the General Plan, and Limited Use in the Ellis Specific Plan that is not already zoned such, and schedule for hearing dates in December 2013.

2. Cessation of fuel operation. Should the current fuel service operator cease operation, or sell the business or assign the contract with the City of Tracy then obligation to assist in funding the shortfall shall terminate immediately without any prior notice.

APPENDIX B



San Joaquin County Grand Jury



AGENCY APPROVAL OF RESPONSES TO GRAND JURY REPORTS:

Do They Know What They Approve?

2013 – 2014 Case No. 1613

Summary

Civil grand juries were established by the Constitution of the State of California. They serve as watchdogs of county government as well as the cities and all other governmental agencies within the county. Grand juries conduct investigations and publish reports. Agencies cited in the reports are required to respond to the findings and recommendations of the reports.

California Penal Code Section 933(c) states that the governing body of each agency that is the subject of findings and recommendations in a grand jury report must respond within 90 days to the Presiding Judge of the Superior Court. Although staff at the agency may prepare the responses, the members of the board or council are responsible for responding.

The 2013-2014 Grand Jury (Grand Jury) determined that some members of the Stockton City Council did not personally agree with the official responses they approved. It was decided to interview all Council Members about their responses. It was also decided to survey the County and each City within the County to determine who writes responses to grand jury reports, when the responses were approved, whether there was any discussion prior to approval and what the final vote was.

The Grand Jury found that there were significant differences between the personal opinions of members of the Stockton Council and their official responses that they approved. It was also found that the County and the Cities typically approve their responses as written by staff with very limited discussion.

Glossary

Brown Act	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
Council Members	includes the Mayor and all other elected members of a City Council
Fact	confirmed information learned by a grand jury
Finding	an assertion, conclusion or judgment based on facts as determined by a grand jury
Recommendation	suggested course of action to solve a problem identified in a finding by a grand jury

Background

The grand jury system was established by the Constitution of the State of California as a judicial body. California Penal Code Sections 888 to 940 describe the requirement for and general matters of grand juries. Criminal grand juries are well known and often mentioned in the news and the media. Civil grand juries are not as well-known but serve a function that is just as critical. The purpose of the civil grand jury (grand jury) is to serve as a group of citizens that reviews the workings of county and municipal governments, school districts, special districts, and other local governmental agencies within the county. The grand jury's mission is:

- To confirm that local government officers and employees are administering their agencies honestly, efficiently and in compliance with the law
- To identify instances of dishonest, inefficient or illegal actions and when such actions are found
- To recommend the development of policies and procedures that will correct those shortcomings

The San Joaquin County Grand Jury is comprised of 19 citizens who serve for one full year. Many of these individuals apply to serve on the grand jury while some members are selected from a regular jury pool. The members share a common desire to make a difference in the County.

A grand jury conducts investigations of different government agencies. These investigations are selected from jury member concerns, citizen complaints and suggestions from prior grand juries. Committees spend months researching documents and conducting interviews to determine how well the agencies perform. Since a group of concerned citizens with various backgrounds conducts these investigations, the grand jury is able to view the subject agencies from a perspective that may be very different from the perspective within the agency.

When an investigation is complete, a report is written which describes what has been determined from the investigation. This report provides background on the subject agency, discussion of the issues and, where appropriate, findings and recommendations for each issue. The grand jury is trained to verify all their facts, to use these facts to support findings and to be sure the findings support the recommendations. Because the reports are written from the perspective of a concerned group of citizens, the reports often lead to improved efficiency within the subject agencies.

Over the years, San Joaquin County Grand Juries have published reports that have resulted in agencies making significant improvements.

- 2004 - 2005 Case #0703, *San Joaquin County Public Guardian Conservator's Office*: San Joaquin grand juries had conducted investigations of this County office in 2000 - 2001 and 2001 - 2002. Ongoing issues prompted a new investigation in 2003 - 2004. This report led to updating of a policy and procedures manual, the addition of staff, additional training for staff members as well as other changes.
- 2007 - 2008 Case #0707, *San Joaquin Regional Transit District*: Responding to a complaint, the Grand Jury conducted a major investigation of this special district. Many improper management practices were found. In response to one recommendation, management conducted an analysis of consultant use that resulted in a savings of over \$400,000 in one fiscal year.
- 2010 - 2011 Case #1110, *Woodbridge Sanitary District*: Numerous complaints were filed with the grand jury that resulted in a major investigation of this special district. The final report included 19 recommendations regarding new policies and procedures, credit card controls, creation of job descriptions, development of a training manual and development of a complaint procedure. The district implemented changes to address all 19 recommendations.
- 2012 - 2013 Case #0412, *Fractured Oversight Fails to Serve At-Risk Youth*: The subject of this investigation was group homes in the County. The grand jury found that the State agency responsible for monitoring group homes for compliance with State regulations was not conducting the site inspections as required. This report and other concerns supported the State's January 2014, budget proposal to include more than 70 new staff members to conduct the monitoring. It should be noted that this impact occurred even though the grand jury has no jurisdiction over State agencies.

All Grand Jury reports can be reviewed at
http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

While reports are written to inform the public, each report is also given to the agency that is the subject of the investigation. California law requires the agency subject to the report to respond to each finding and recommendation. California Penal Code Section 933(c) states:

"No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendation pertaining to matters under the control of the governing body..."

Furthermore, Penal Code Section 933.05 states in part:

"(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

"(1) The respondent agrees with the finding.

"(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

"(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

"(1) The recommendation has been implemented, with a summary regarding the implemented action.

"(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

"(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 grand jury report.

"(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor."

It is a common practice of San Joaquin County Grand Juries to follow up on the prior year's recommendations and the responses provided by the agency(s). The requirement for responses and the monitoring of the responses is intended to effect change. It is the expectation of the grand jurors that the agency reviews the report and seriously considers and implements the recommendations.

Reason for Investigation

During interviews conducted as part of the 2013-2014 Grand Jury follow-up, it was learned that some of the members of the Stockton City Council did not agree with some of their approved responses to the 2012-2013 reports.

The Grand Jury decided to investigate the extent of this disagreement in Stockton. In addition, it was decided to determine how the County and each City approve their responses to grand jury reports.

Method of Investigation

The Grand Jury interviewed the Mayor and all other Stockton Council Members. In addition, the video of the August 13, 2013, Council Meeting was viewed when the City's responses to the 2012-2013 Grand Jury reports were approved.

In order to determine how the County and each City approve their responses to grand jury reports, a survey was sent to each of the eight agencies. Survey responses were received from all eight agencies.

Discussion, Findings and Recommendations

1.0 Stockton City Council Members Do Not Agree With Their Own Responses

The 2012-2013 Grand Jury issued 24 reports. Of these, the Stockton City Council was required to respond to five. A complete copy of the original reports and the responses may be found on the San Joaquin County Grand Jury website at

http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

On August 13, 2013, the Stockton City Council considered the responses to the 2012-2013 Grand Jury reports. During the discussion on this agenda item, many comments were made thanking the staff and praising their efforts in drafting the responses. Not one member of the City Council asked any questions about the responses or stated any disagreement with any of the responses. The City Council approved the responses by a single unanimous vote. A link to the video of this meeting is found on the City's web page at

<http://stocktongov.com/government/oMeetings/councilMeetings.html>.

Although the responses were approved by a unanimous vote and despite the fact that there were no questions asked or dissenting opinions expressed during the public meeting, the Grand Jury found significant differences between many of the approved responses versus the personal opinions of the members of the City Council. While the Grand Jury did not ask the Council Members whether they agreed with all of the responses, the level of disagreement was significant.

Some members of the City Council made comments that appeared to explain why the opinions expressed to the Grand Jury were not the same as their approved responses. Statements were

made such as: the approved response was different because of political reasons; or that was just my own belief.

However, the problem is that each individual member of the City Council is not able to know the opinions of all other members prior to the public meeting. The Brown Act is a State law that governs how governing bodies of public agencies must act. One of the provisions of the Brown Act is that an individual is not allowed to discuss a matter with all the other members except in a meeting of the governing body. Therefore, the only way a member of the Stockton City Council would know whether others on the Council shared the same opinion would be to discuss it at a public meeting. And, as stated above, no such discussion of any possible disagreement was ever held in a public meeting.

Findings

F 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.

F 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.

2.0 How Responses to Grand Jury Reports are Approved

As the Grand Jury determined discrepancies between Stockton's approved responses to the 2012-2013 Grand Jury Report versus the opinions of the individual Council Members, it was decided to survey San Joaquin County and all seven Cities. The survey asked each agency to provide the following information regarding their responses to grand jury reports that were released over the last four years:

- Identify who prepared the responses
- Provide the date the responses were approved and a copy of the minutes of the meeting
- State where on the agenda the approval was placed
- State the final vote when the responses were approved

A summary of the responses from all eight agencies is found in Appendix A.

Regarding the matter of who wrote the responses, staff members typically provided draft responses to the governing board for approval at a public meeting. Of the eight agencies, only the City of Tracy's responses were prepared by an elected official. Members of the Stockton City Council were not able to identify who had drafted the responses that they approved in 2013.

Regarding the matter of when the responses are received, California Penal Code Section 933(c) states that responses from governing bodies must be received no later than 90 days after a report is submitted. The grand jury reports are submitted no later than June 30 of each year. The

agencies responded within the 90-day requirement of the Penal Code on 19 of the 23 instances surveyed (83%).

The Penal Code does not specify whether the approval of agency responses must be discussed or may be placed on the consent agenda. A review of the 23 responses revealed the following:

- 18 times the approval was on the consent agenda where non-controversial, administrative matters are typically approved en mass
- Of the 18 times approval was on the consent agenda, nine times (50%) the item was removed from the consent agenda which allowed for discussion
- Five times the approval was on the agenda for discussion or new business
- The minutes of the meetings where the responses were approved show very little discussion by the members of the governing agency
- The minutes of the meetings where the responses were approved show very little public comment regarding the responses

Regarding the matter of how the governing boards voted when approving their responses, 21 of the 23 votes (91%) were unanimous. Of the two instances when it was not unanimous, only one vote was cast each time in opposition to approving the responses.

Finding

F 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.

Recommendation

R 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.

Conclusion

Much of this report addresses the differences between the personal opinions of Stockton City Council Members versus the responses they approved. It is the opinion of the 2013-2014 Grand Jury that this type of discrepancy could be found in responses from the County, other cities, school districts and other special districts. In addition, it is the opinion of the 2013-2014 Grand Jury that this type of discrepancy could be found in decisions other than responses to grand jury reports.

The governing body of an agency determines policy for the agency. Staff accomplishes most of the work of the agency. The governing body must rely on its staff to provide timely, accurate and comprehensible materials to them so that they are able to make appropriate decisions.

The issues found in this report indicate that some officials rely too much on the work of staff. All members of a governing body, whether elected or appointed, must consider their own beliefs and then ask questions and, when appropriate, state disagreement with the work of their staff. These officials are in their positions to oversee the work of staff, not to accept whatever their staffs propose.

Members of governing bodies are elected or appointed to make appropriate decisions while considering the interests of their constituents as well as their personal beliefs. This balance between their own beliefs and what they hear from those whom they represent leads to the best decisions.

Appendix

Appendix A: Chart of How Agencies Respond to Grand Jury Reports

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 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.

The Stockton City Council shall respond to each Finding and Recommendation contained in this report. The County of San Joaquin Board of Supervisors and the City Council Members of Escalon, Lathrop, Lodi, Manteca, Ripon and Tracy shall respond to Finding F 2.1 and Recommendation R 2.1.

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.

Appendix A

Approval of Responses to Grand Jury Reports

AGENCY	YEAR REPORT RELEASED	PREPARED BY	DATE OF APPROVAL	AGENDA PLACEMENT	IF CONSENT, WAS IT PULLED FOR DISCUSSION?	VOTE
Escalon	2010	Interim City Manager	August 16, 2010	Discussion	NA	5-0
	2011	City Manager	August 15, 2011	Discussion	NA	5-0
	2012	no response required				
	2013	Project Consultant	August 5, 2013	Consent	no	5-0
Lathrop	2010	City Attorney	February 7, 2011	Consent	yes	5-0
			March 21, 2011	Consent	yes	4-0
	2011	no response required				
	2012	no response required				
Lodi	2013	City Attorney	August 19, 2013	Consent	yes	4-1
	2010	City Manager	September 21, 2010	Consent	yes	5-0
	2011	City Manager	August 17, 2011	Consent	no	5-0
	2012	no response required				
Manteca	2013	City Manager	August 7, 2013	Consent	no	5-0
	2010	Assistant City Manager	December 21, 2010	Consent	yes	5-0
	2011	Assistant City Manager	August 16, 2011	Consent	yes	5-0
	2012	no response required				
Ripon	2013	City Manager	July 16, 2013	Discussion	NA	5-0
	2010	City Administrator	July 5, 2011	Consent	no	4-0
	2011	no response required				
	2012	no response required				
San Joaquin County	2013	City Administrator	August 20, 2013	Consent	yes	4-1
	2010	department head	August 31, 2010	Consent	yes	4-0
	2011	no response required				
	2012	department head	September 11, 2012	Consent	no	5-0
Stockton	2013	department head	August 13, 2013	Consent	yes	4-0
	2010	City Manager	September 28, 2010	Consent	no	7-0
	2011	City Manager	September 13, 2011	Consent	no	7-0
		City Manager	August 23, 2011	Consent	no	7-0
Tracy	2012	no response required				
	2013	City Manager	August 8, 2013	New Business	NA	7-0
	2010	Mayor	September 7, 2010	Consent	no	5-0
	2011	no response required				
	2012	no response required				
	2013	Mayor	July 16, 2013	Discussion	NA	5-0

Section III

2013-2014 Law and Justice Report

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San Joaquin County Grand Jury



2013 - 2014 LAW AND JUSTICE REPORT

Overview

The Grand Jury is required to inspect all detention and holding facilities within San Joaquin County as mandated by the California Penal Code Section 919(b) which states:

"The grand jury shall inquire into the condition and management of the public prisons within the county."

With this mandate, the Grand Jury made visits and formal tours, heard presentations and participated in ride-alongs with law enforcement officers and firefighters. Many of the agencies provided documents regarding their facility, operations and the programs offered.

The State of California has four penal institutions operating within San Joaquin County: Deuel Vocational Institution (DVI), O.H. Close, N.A. Chaderjian and the California Health Care Facility. All facilities were visited except the new medical facility which was not toured due to State operational restrictions.

San Joaquin County operates two detention facilities: the San Joaquin County Jail and the Juvenile Detention Center. The San Joaquin County Superior Court has temporary detention facilities located in the Stockton and Manteca courthouses. Each city police department with the exception of Lathrop Police Services has a jail or temporary detention facilities. The 2013-2014 Grand Jury visited all detention facilities located within the County.

Glossary

AB109	Assembly Bill 109 Public Safety Realignment; mandates individuals sentenced to non-serious, non-violent and non-sex offenses will serve their sentences in county jails instead of state prisons
CALPIA	California Prison Industries Authority
Chad	Northern California Youth Correctional Facility, N.A. Chaderjian
Close	Northern California Youth Correctional Facility, O.H. Close
DJJ	California Division of Juvenile Justice
DVI	Deuel Vocational Institution
GED	General Educational Development; an alternative to high school graduation
Honor Farm	Minimum-security facility at the San Joaquin County Jail

San Joaquin County Jail John J. Zunino Detention Facility

The Grand Jury toured the County Jail and Honor Farm. The tour included Intake and Booking, Medical Housing Unit, General Population Housing, and Administrative Segregation Housing.

The San Joaquin County Jail (County Jail) has a total capacity of 1,411 beds. It serves as an intake center and provides for the detention of pre-trial inmates as well as the confinement of sentenced inmates. The Main Jail has a capacity of 510 beds. Intake, medical and transitional housing units have a capacity of 330 beds and the Honor Farm has a capacity of 571 beds. By State law, juveniles are not housed within this facility.

At the Main Jail the ratio of inmates to Correctional Officers is 64 to 1 in the general population unit. At the Honor Farm the ratio of inmates to Correctional Officers is 70 to 1. Currently there are approximately 12 unfilled Correctional Officer positions within the County Jail. The shortage of personnel is offset by the utilization of overtime. The overtime is needed to ensure an adequate level of staffing for the continued incarceration and oversight of the inmate population.

California Assembly Bill 109 (AB109) continues to negatively impact the County Jail. The State continues to incarcerate convicted offenders who commit serious, violent or sexual crimes. The counties now have the responsibility of supervising, rehabilitating and managing the convicted low-level offenders who were previously incarcerated in State prisons. Additionally, counties now have the responsibility of incarcerating all parole violators.

Correctional staff utilizes eligibility criteria to determine which inmates are moved from the Main Jail to the Honor Farm. Inmates assigned to the Honor Farm have been determined to be low risk, non-violent and non-sex offenders. Over the past three years the Honor Farm has been at approximately 85% of usable bed capacity. Inmates have different levels of confinement within the Honor Farm. They range from being housed in open dormitory style sleeping quarters to individual cells. Inmates at the Honor Farm perform a variety of services that include:

- County Cooperative Service (CCORP) which is typically roadside cleanup provided seven days per week as needed
- Kitchen services
- Vegetable gardening that provides food for nonprofit agencies
- Landscaping
- Laundry services for the full jail complex
- Central Supply warehouse for the full jail complex

The County Jail and the Honor Farm were orderly and well organized. The Grand Jury found the staff to be knowledgeable, courteous and forthcoming with information regarding the operation of the facility.

San Joaquin County Boating Safety Unit

The San Joaquin County Sheriff's Department is responsible for patrolling over 700 miles of waterways in the Delta and its tributaries. The Boating Safety Unit has three vessels including a new thirty-eight foot boat that gives them the ability to provide more services to the public. Some of the services they provide include assisting services to fishermen and boaters, enforce penal codes and boating safety laws, vigorously pursue and prosecute Boating Under the Influence (BUI) violators and assist with search and rescue missions.

Another serious problem confronting San Joaquin County is the large number of abandoned boats. It is a long and costly process to clear these boats from the Delta and is time-consuming for the Sheriff's Boating Safety Unit.

San Joaquin County Juvenile Detention Facility

The San Joaquin County Juvenile Detention Facility is located in French Camp, California. The San Joaquin County Probation Department controls operations within the Juvenile Detention Facility. This facility detains males and females 12 to 18 years of age. Many educational opportunities and recreational activities are available for the juveniles in custody.

- Programs available include:
- Aggression Replacement Training
- Cognitive Behavior Training
- Girl Scouts
- Girls Moving On
- Monthly nutrition educational activity
- Moral Recognition Therapy
- Religious services
- School provided by San Joaquin County Office of Education
- Substance abuse education
- Teen sexuality
- Thinking for a Change Training

The success of the Girl Scout program has led to the proposed implementation of a Boy Scout program.

This facility operates as both an intake and detention facility. In 2013 approximately 400 to 500 youth were processed each month. Most of these youths are issued a citation and released until they meet with a probation officer or appear in court. The most serious offenders are detained at the facility which has a capacity of approximately 120. Ninety to 100 youths are incarcerated at this facility at any one time.

The goal of the facility is to direct youth toward a more positive lifestyle with emphasis on education, self-awareness and growth. The Juvenile Detention Facility's mission is to provide evidence based interventions to the youth to assist them in adopting pro-social behaviors. This should result in reduced recidivism thereby increasing public safety while reducing victimization. All juveniles who have not graduated from high school are required to attend classes while incarcerated.

Adjacent to the Detention Facility is Camp Peterson, a 45 bed juvenile facility. It is a court-ordered commitment program of up to one year for male juvenile offenders at high risk for further delinquency. This structured residential program promotes self-discipline, accountability, responsibility, tolerance, respect, sobriety, physical education, academics, basic life skills and work readiness.

The general maintenance of the facility seems to be adequate given the age of the buildings. However, during the tour jurors noticed excessive dust on many HVAC vents.

The Juvenile Detention staff were professional and courteous.

Communication Centers

Grand Jury members toured the following communication centers:

- San Joaquin County Sheriff's Department
- Stockton Police Department
- American Medical Response/LifeCom Dispatch Center in Salida

Grand Jury members observed and listened in as the dispatchers answered calls for service, prioritized the calls and dispatched the appropriate agencies. These dispatchers were well trained, professional and calm while taking a multitude of calls.

Lodi City Jail

The Grand Jury toured the Lodi City Jail. This is the only Type I facility in San Joaquin County. A Type I jail is approved to house inmates for no more than 96 hours excluding weekends and holidays. There are ten double-bed cells, a mental health/suicide watch cell, two intoxication cells and three holding cells for juveniles in a separate location within the building. The facility was clean, modern and the staff was courteous during the tour.

Public Safety Ride-Alongs

The 2013-2014 Grand Jury was given the opportunity to have a first-hand look at San Joaquin County public safety in action. Grand Jury members went on 20 ride-alongs with 12 law enforcement and five fire agencies totaling more than 200 hours. The Public Safety Officers were professional, courteous, compassionate and are to be commended for their dedication to keeping San Joaquin County safe.

Grand Jury members did ride-alongs with law enforcement officers from the following agencies:

- Delta College Police Department
- Escalon Police Department
- Lathrop Police Services
- Lodi Police Department
- Manteca Police Department

- Ripon Police Department
- San Joaquin County Sheriff's Department
- San Joaquin County Sheriff's Department Boating Safety Unit
- Stockton Police Department
- Stockton Unified School District Police Department
- Tracy Police Department
- University of the Pacific Department of Public Safety

Grand Jury members toured facilities, attended briefings and responded to calls for service including domestic violence, burglary, intoxication, mental health, stabbings, drugs, vehicle thefts, vehicle accidents and shootings. They also observed citizens who flagged the officers down or walked up to them for assistance for many issues. These police officers and deputies help the public while maintaining officer safety.

Grand Jury members did ride-alongs with firefighters from the following agencies:

- French Camp-McKinley Fire District
- Lathrop-Manteca Fire District
- Manteca Fire Department
- Ripon Consolidated Fire District
- Tracy Fire Department

Grand Jury members responded with these agencies to medical and fire calls. The firefighters were also observed maintaining vehicles, equipment, turnout gear and the firehouse. They performed their duties in a professional manner.

Deuel Vocational Institution

Deuel Vocational Institution (DVI) opened in 1953 in the unincorporated area of Tracy. The facility was named for the late senator Charles D. Deuel who sponsored legislation establishing the institution. DVI's primary mission is to provide housing for medium security inmates. It also serves as a reception center that receives inmates from 29 northern California counties. Staff processes these inmates by compiling and evaluating the inmates' criminal records to include life, medical, psychological and social histories. The information is used to identify any specific placement needs the inmate may have. Once the reception process is completed the inmate is transferred to one of the 34 State prisons where they serve the remainder of their prison sentence.

DVI was designed for a capacity of 1,673 inmates but has housed close to 3,800 inmates. At the time of the Grand Jury tour, it housed approximately 2,300 prisoners. Since AB109 was passed in 2011, DVI has phased out the so-called "bad beds" (triple bunks in the gymnasium) which had become symbolic of prison overcrowding.

Vocational training programs in California prisons are under the supervision of California Prison Industries Authority (CALPIA). DVI has a number of vocational training programs including HVAC repair, computer training and a dairy. The dairy processes 4,500 gallons of milk per day from 500 cows. The milk is processed, packaged and shipped to state prisons and state hospitals in Northern California. CALPIA also farms approximately 450 acres of corn, oats, and alfalfa for cattle feed. This operation separately houses and employs approximately 75 minimum support inmates who receive on the job training as dairymen and/or farm hands. DVI also has a computer training program which enables inmates to learn clerical skills. At the end of training, inmates receive a certificate of completion. The Grand Jury was pleased to learn that additional vocational training programs are being planned for this facility.

The Grand Jury found the Warden and prison staff to be professional and they answered all questions that were asked. They accommodated the Grand Jury's request to tour the dairy operations.

Northern California Youth Correctional Center

The Northern California Youth Correctional Center is operated by the Division of Juvenile Justice (DJJ), formerly known as the California Youth Authority. The goal is to provide treatment, training and education to youthful offenders. DJJ works closely with law enforcement, the courts, district attorneys, public defenders and probation officers. There is a broad spectrum of public and private agencies involved with the problems concerning youth. The inmates committed to DJJ have been convicted of the most serious and violent crimes such as rape, robbery, carjacking, murder and sexual assault.

The Grand Jury toured the Northern California Youth Correctional Center which includes N.A. Chaderjian (Chad) and O.H. Close (Close) Youth Correctional Facilities.

O.H. Close Youth Correctional Facility (Close)

Close was opened in 1966 and houses males under the age of 18 in dormitory-style living units. Treatment and counseling programs are provided to focus on personal issues so that they are better able to reenter society. The programs provide assistance in the following areas: anger management, abandonment issues, decision-making skills, substance abuse, gang disassociation, parenting, peer pressure, sex behavior treatment and victimization.

Education is an integral part of the inmates' program. The inmates are enrolled at Johanna Boss High School within the facility. This is an accredited high school offering students the opportunity to earn a high school diploma or GED. The high school located

in the facility has a special education department and provides classes in English as a Second Language.

While touring these facilities the Grand Jury observed some issues with this facility. A number of swamp coolers appeared to be in need of refurbishing. Structural supports for these units were covered with rust, mold, dirt and peeling paint. In a dormitory unit, several power strips could be seen in a staff observation room that were connected in series to supply power to monitors and other electrical equipment. Staff stated that there is a lack of adequate electrical outlets for all the equipment in this room which could be a safety and fire hazard.

Findings

F 1.1 Swamp coolers and their supports are in advance stages of disrepair and maintenance which could result in health and safety issues for inmates and staff.

F 1.2 Several power strips were connected in series to supply power to monitors and electrical equipment creating a fire and safety hazard.

Recommendations

R 1.1 Inspect the swamp coolers and their structural supports and repair or replace as needed.

R 2.2 Inspect the electrical systems in the dormitory units and bring these systems up to current Fire and Electrical Codes.

N.A. Chaderjian Youth Correctional Facility (Chad)

Chad was opened in 1991 and houses males ages 18 to 25 who live in six Units (I to VI) comprised of twelve halls:

- Kern Hall Behavior Treatment Program, Unit I, is intended to provide re-direction and treatment for inmates who demonstrate violent, disruptive, aggressive behavior.
- Sacramento Hall - Intensive Behavior Treatment Program, Unit I, serves the most severely disturbed group of violent and aggressive inmates needing psychological, psychiatric and security services.
- Merced Intensive Treatment Program/Specialized Counseling, Unit II, is designed to provide a full range of medical and psychiatric treatment for the inmates who are acutely disturbed, severely disorganized or so physically impaired they cannot be adequately programmed in other programs.

- Feather Hall Core Program, Unit III and Pajaro Hall, Unit V, provides core treatment services to inmates who are considered a low risk for violent behavior.
- Mojave Hall Core Program, Unit III and Owens Hall, Unit V, provides core treatment to inmates who are determined to have a higher risk for violent behavior.
- American Sexual Behavior Treatment Program, Unit IV, provides a setting for sexual offenders exhibiting a broad range of behavioral problems.
- Smith Hall Sexual Behavior Treatment Program, Unit IV, is an orientation and transition program.
- San Joaquin Hall Low Security Risk Level and Parole Violator Program, Unit VI, is a general population hall for inmates with low risk of violent behavior and parolees in custody pending the parole revocation process.
- Tuolumne Hall Clinic and Reception Center, Unit VI, is for new commitments to DJJ for assessment and treatment plan implementation.

Also within the facility is N.A. Chaderjian High School that provides basic skills, high school courses, special education and vocational programs. Community college courses are also available through correspondence programs. The Grand Jury was able to interact with a Landscaping and Irrigation class in session. These students were being taught a marketable skill.

At both Close and Chad, there were role playing exercises that emphasized behavior modification with positive reinforcement. These were part of an instructional program used daily to develop and emphasize positive life skills. A reward structure was also established to encourage positive behavior.

The Grand Jury found the staff of both Chad and Close to be both helpful and professional.

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

Response Requested

The California Department of Corrections and Rehabilitation Department of Juvenile Justice is requested to respond within 90 days of publication of this report to the findings and recommendations in writing to the Presiding Judge of the San Joaquin County Superior Court.

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

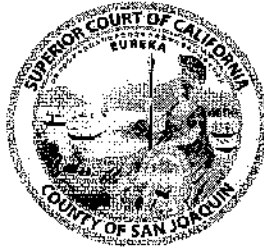
Also, please email a copy of the response to Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org.

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FOLLOW-UP

San Joaquin County Grand Jury



Review and Investigation of Responses to the 2012 - 2013 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 San Joaquin County. The 2012-2013 Grand Jury issued its final report in June 2013, which consisted of nine individual investigations, seven law and justice reports, and eight follow-up reports on government agencies, departments, school districts and special districts throughout the County. These individual investigations, visits and follow-up reports resulted in 118 findings and 99 recommendations.

Elected officials and the governing bodies of public agencies are required to respond to the Grand Jury findings and recommendations in the final report. California Penal Code (P.C.) Section 933(c) requires that governing agencies submit their responses to the Presiding Judge of the Superior Court within 90 days after the Grand Jury issues a final report. Elected officials must respond within 60 days. Governing agencies or elected officials must specifically respond to each finding and recommendation in the Grand Jury Report. P.C. 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.

P.C. Section 933.05(b) requires that the responding person or entity must report one of the following actions for each grand jury recommendation.

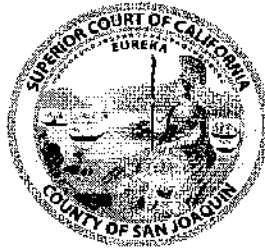
- The recommendation has been implemented, with a summary regarding the implemented action.

- 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, scope, parameters of the analysis and time frame for the matter to be prepared for discussion. The time frame must not exceed six months from the date of publication of the Final Grand Jury Report.
- The recommendation will 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 2013-2014 Grand Jury reviewed each of the responses to the 2012-2013 Grand Jury's Final Report.

Each agency response to the Grand Jury recommendations required review and documentation confirming the respondent performed the action. The following reports include: all findings and recommendations from the 2012-2013 Grand Jury Final Report, the agency responses and replies of the 2013-2014 Grand Jury. The complete agency responses may be located on the San Joaquin County Grand Jury website under "Previous Grand Jury Rosters and Reports" at http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

San Joaquin County Grand Jury



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 describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding the finances of the City of Stockton. Described herein are the methods the 2013-2014 Grand Jury used to determine if the City of Stockton responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agency submitted its response to the 2012-2013 Grand Jury Final Report on August 13, 2013. This report includes the full agency response if the 2013-2014 Grand Jury made Findings and Recommendations. Other responses may have been abridged. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

The City of Stockton's financial situation has deteriorated over the past decade leading to the City's filing for bankruptcy protection under Chapter 9 of the Internal Revenue Code. The 2012-2013 San Joaquin County Grand Jury (Grand Jury) was concerned about the

impact of the bankruptcy filing on the City's current and future services. However, the complexity of the bankruptcy action and the court filings led to the Grand Jury's decision to not look at the details of the bankruptcy itself, but rather to review the City's financial policies, procedures, and past actions that may have been material causes of the financial deterioration. This report reveals what happened in hopes of shedding light on identifiable problems with the City's past actions so that similar problems might be avoided in the future.

Among the issues evaluated were the City's internal financial procedures and capabilities; the role and competency of internal and external auditors; information provided by staff to the City Council; the City's administrative leadership's role in the financial problems; and, the capabilities and financial stewardship of the City's elected officials. During its investigation, the Grand Jury made a number of findings including evidence of inadequate information presented to the City Council by a former city manager; lack of project oversight; unilateral control and manipulation of projects by a former city manager without City Council knowledge or approval; poor accounting of the various transactions involving the Events Center; lack of reliable information between city staff and the City Council; and, a financial system that is inadequate for the accounting needed.

In view of these findings, the Grand Jury's recommendations reflect concerns that the City's financial operations need strengthening in personnel, procedures and equipment; that the audit activities, both internal and external, need better oversight by elected and appointed officials; that information on fiscal matters be given greater emphasis, clarity and attention; and, the elected City Council become better prepared to understand and address the complexity of local government finances in Stockton.

Glossary

CAFR	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
City Auditor	The individual or firm appointed by the City Council to conduct internal audits of city operations and finances
City Charter	The Charter of the City of Stockton which establishes the general framework for the government organization, authority, and operations
City Council	Unless otherwise specified, includes the six elected council members and the mayor of the City of Stockton
Council Member	Any one of the six elected members of the Stockton City Council; does not include the mayor

CSAC	California State Association of Counties; an association comprised of and representing the interest of counties in California
Events Center	Includes the arena, ballpark, marina and other capital projects in downtown Stockton
External Auditor	The firm hired by the City Council to conduct an annual audit of the City's financial records and procedures
Fiscal Year/FY	Fiscal year; the Stockton government's financial year beginning on July 1 and ending the following June 30
Mayor	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

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the 2012-2013 Grand Jury's findings and recommendations and Stockton's responses. All members of the Stockton City Council including the Mayor were interviewed as well as City of Stockton staff members.

Findings, Recommendations, Agency Responses and Grand Jury Results

1.0 Information Provided to the City Council

2012-2013 Finding 1.1: "The agenda reports for the Events Center project for the December 14, 2004 council meeting, and other major projects were presented to Council Members with inadequate time to review the complex issues. The same finding was disclosed in the 2005-2006 Grand Jury report City of Stockton Redevelopment."

- **Agency Response:** *"The respondent agrees with the finding..."*

2012-2013 Finding 1.2: "Few Council Members asked questions of City staff about the City's financial condition or the financial impacts of major expenditures they were being asked to approve."

- **Agency Response:** *"The respondent agrees with the finding..."*

2012-2013 Finding 1.3: “The City Council’s approval of loans between restricted funds without receiving any information or documents on the repayment requirements or impacts created an unclear picture of the actual fund balances in the various accounts.”

- **Agency Response:** *“The respondent agrees with the finding...”*

2012-2013 Recommendation 1.1: “Information regarding major new and/or complex projects or programs that have an adverse impact on the City’s financial condition be provided to the City Council Members and public not less than 10 calendar days before the date of proposed Council actions to allow for a thorough review of materials and an opportunity for the Council Members and public to ask questions.”

- **Agency Response:** *“The respondent partially agrees with this recommendation. The City Manager currently demands and the City Council expects that all major new and/or complex projects or programs are provided to Council well in advance of proposed Council action. The City Manager typically recommends complex projects and programs be considered at a study session or by Council Committee prior to Council taking any action. However, the respondent cannot guarantee that all information on complex projects will always be provided 10 days in advance, but will continue to strive for the provision of complete information for Council and the public with adequate time for review.”*

2012-2013 Recommendation 1.2: “The City Council hold a study session at least quarterly to receive and discuss complex financial issues to include, but not be limited to, the City’s financial condition, long-term impacts of past, current and proposed financial obligations of the City, major capital outlays and employee contracts. An opportunity for all members of the City Council and the public to ask questions is to be incorporated into the study session.”

- **Agency Response:** *“The respondent partially agrees with this recommendation... Staff will continue to conduct financial updates on a quarterly basis. However, the review of contracts, agreements and capital outlays are not well suited to quarterly reports. These items are better addressed at key milestones and decision points...”*

2012-2013 Recommendation 1.3: “All proposals for the City Council to authorize inter-fund loans be accompanied with loan documents detailing obligations of the loan and any impacts on the City’s General Fund.”

- **Agency Response:** *“The respondent agrees with this recommendation. The City Manager currently requires that any proposal for an inter-fund loan will be brought before Council and must be accompanied with loan documents detailing the obligation, its impacts on the General Fund, if any, and the plan for repayment including the term of the loan and source of repayment. In addition, no later than December 2013, staff will prepare for Council adoption an inter-fund loan policy specifying these requirements.”*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding *Information Provided to the City Council*.

The Grand Jury could not find any evidence of the City Council considering an inter-fund loan policy.

2013-2014 Finding

F 1 The Stockton City Council did not consider an inter-fund loan policy as stated in their response.

2013-2014 Recommendation

R 1 The Stockton City Council by October 31, 2014, adopt an inter-fund loan policy.

2.0 Effectiveness of the City Auditor

2012-2013 Finding 2.1.1: "While the City Auditor is accountable only to the City Council under the City Charter, city managers influenced the Auditor's day-to-day operations through recommendations on the City Auditor's budget, thus limiting the Auditor's direct interaction with department heads."

- **Agency Response:** *"The respondent partially disagrees with this finding... It is typical for the City Auditor, similar to other departments to operate within budgetary constraints which require thoughtful planning to develop a risk based approach to their audit strategy..."*

2012-2013 Finding 2.1.2: "The City Council showed little actual activity in fulfilling its obligations to oversee the City Auditors' Office."

- **Agency Response:** *"The respondent partially disagrees with this finding. While not violating confidential personal matters, we can say the former Council expressed opinions on performance and expectations with the former City Auditor."*

2012-2013 Finding 2.2.1: "The City Auditor was instructed by a former city mayor and former city manager not to review the City's overall finances. The City Auditor did not at that time or since, conduct independent reviews of revenue or expenditure projections used for project and program funding."

- **Agency Response:** *"The respondent is not in a position to agree or disagree with this finding..."*

2012-2013 Finding 2.2.2: “Elected officials testified that the City Auditor was not assertive in conducting reviews and evaluations of city contracts, department programs, or the overall City financial condition, thus denying the City Council and public an independent review of financial implications of the city managers’ recommendations.”

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

2012-2013 Finding 2.2.3: “The City Auditor did not conduct, nor did the City Council direct, a separate review of compliance with construction contracts related to the Events Center or the assumptions on which financial decisions for the project were made.”

- **Agency Response:** *“The respondent partially agrees with this finding. The City Auditor’s office conducted an internal control evaluation of the Stockton Events Center (report dated March 2007). The Council hired an external auditor to conduct a Stockton Events Center fiscal evaluation (report dated February 2006)... No audit was conducted regarding the financial assumptions used regarding the project...”*

2012-2013 Finding 2.3: “The recent practice of using a firm as the City Auditor gives the City Council more flexibility in directing what audits and studies are to be conducted since a wider field of expertise offered by the firm can be tapped to undertake the investigations.”

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

2012-2013 Recommendation 2.1: “The City Council adopt a concise policy by December 31, 2013 identifying the City Council’s oversight obligations 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 with this recommendation. The Council has a unique opportunity with the pilot project of outsourcing the City’s audit function to evaluate this relationship and clarify the roles and responsibilities of the Council and the City Auditor. In addition, the Council Audit Committee has determined to undertake a review of their role and establish a Charter outlining their scope of responsibilities. This will include a schedule of the types of reports and audits they expect to be provided by the City Auditor. Those elements of this review that are appropriate for inclusion will be adopted into a new version of City Council Policy 100-4, Mayor Appointments to Council Committees and Committee Structure/Function. The review of City Council Policy 100-4 is also related to the City’s response to R 5.3 and R6.1.2 discussed below. Council Policy 100-4 will be reviewed and updated by no later than December 31, 2013.”*

2012-2013 Recommendation 2.2: “The City Council adopt a policy by November 30, 2013 clarifying the types of audits and reports the City Auditor is to perform and when the audits are to be conducted and under whose direction they are to be undertaken.”

- **Agency Response:** *"The respondent agrees with the concept of this recommendation, but not the prescribed timing. As noted in the response to R 2.1 above, a review of City Council Policy 100-4 as it related to the Council Audit Committee will be undertaken. There may be elements of this review that clarify the types of audit and reports that the Council Audit Committee would like to receive. However, it is overly proscriptive to determine by ordinance specific audit and reports required of the City Auditor. The purpose of the risk assessment and 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. We are also in test mode with the contractual auditor model and will not commit to a longer relationship at this time."*

2012-2013 Recommendation 2.3: "For the next two years, the City contract with an outside firm with multiple areas of expertise to serve as City Auditor. The use of a firm (versus an individual) is to serve as City Auditor to be evaluated as a distinct action item annually as part of the budget review and adoption process."

- **Agency Response:** *"The respondent agrees with this recommendation except it will not commit to the two year window until we review their work during this initial trial phase..."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding the *Effectiveness of the City Auditor*.

The Audit Committee of the Stockton City Council has discussed the oversight of the City Auditor and the Auditor's findings and reports. Their September 23, 2013, minutes state that a motion passed "to approve the recommendation to move this item forward to the full Council for approval of the draft Audit Committee Charter with the noted amendments." However, as of April 1, 2014, the City Council had not considered this matter.

When interviewed, City Council Members expressed interest in adopting a policy clarifying the types of audits needed from the City Auditor and when they are needed.

2013-2014 Findings

F 2.1 The City of Stockton agreed to adopt a policy regarding the City Auditor but has not done so.

F 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.

2013-2014 Recommendations

R 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.

R 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.

3.0 Effectiveness of the City's External Auditors

2012-2013 Finding 3.1: "The long-term nature of the contract with the former External Auditor firm may have been a major cause of complacency by both the auditors and City staff. The friendliness between the auditors and finance staff undermines the integrity and objectivity regarding the thoroughness of the audit process."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding 3.2: "The City Auditor did not manage the external audit process in an effective manner to determine if a full independent review of the accounting processes was being conducted."

- **Agency Response:** *"The respondent agrees with this finding based on the magnitude of accounting errors requiring restatement of prior year financial statements as reported in the June 30, 2011 Comprehensive Annual Financial Report..."*

2012-2013 Finding 3.3: "The final audit for the fiscal year ending June 30, 2011 indicated there had been major deficiencies and material errors in the prior financial accounting records and procedures, which the prior external audit firm failed to identify and emphasize in their reports."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding 3.4: "Concerns raised by the former External Auditors were repeated in subsequent Reports to Management indicating a lack of accountability before implementation of the City's action plan response by prior city management."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Recommendation 3.1: "The City Council adopt a policy no later than November 1, 2013 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 recommendation there must be a firm policy. The City supports awarding external financial contracts for terms that balance continuity with complacency. However, it is overly proscriptive 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."*

2012-2013 Recommendation 3.2: "Effective with the current external audit contract, the City require the audit firm to regularly rotate audit supervisors to provide fresh perspective on the City's financial accounts and operations, and to establish an arms-length professional relationship between the audits and City staff."

- **Agency Response:** *"The respondent disagrees with this recommendation..."*

2012-2013 Recommendation 3.3.1: "No later than September 30, 2013 the City Council annually select a qualified individual or firm to provide an independent review of the external audit's Letter to Management and city management's response to include a report of findings to the City Council."

- **Agency Response:** *"The respondent disagrees with this recommendation. This recommendation adds yet another layer of review that will actually slow improvements down and consume extraordinary amount of staff time bringing up another firm up to speed. It is not a wise use of tax payer dollars. The recommendation is not considered a standard practice within governmental agency audits nor other industry audits, including publicly traded companies. City Council Policy 100-4, establishes the responsibility of the Audit Committee to review the external audit and reports of the external auditor. The Chief Financial Officer, who reports to the City Manager, and the City Manager are charged with fixing any issues. The role of the audit committee in that policy is considered standard practice. The audit reports, Letter to Management on Internal Controls and responses have been and will continue to be provided to the audit committee in advance of the meeting with subsequent discussion at an open meeting of the audit committee. The City of Stockton recognizes the concerns caused by past audit errors. However, the City has demonstrated transparency, accountability, and professional expertise in recent years by finding and correcting these errors. City staff and the City Council, with assistance from new internal auditors and external auditors, are responsible for assuring the financial audits are sufficient and these be followed through."*

2012-2013 Recommendation 3.3.2: "Following the completion of the FY 2012-13 audit, the Chief Financial Officer and the City Manager provide the City Council with

quarterly status reports describing actions that had been taken to address all recommendations, deficiencies and material weaknesses identified in the CAFR.”

- **Agency Response:** *“The respondent agrees with this recommendation...”*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding the *Effectiveness of the City's External Auditors*.

When interviewed, City Council Members expressed interest in adopting a policy that stipulates the contracts for external auditors be limited to three years with a maximum of two one-year extensions.

When interviewed, City Council Members expressed interest in having the external auditor's Letter to Management and the staff's response to the letter reviewed by someone outside the City and the external auditor's company.

2013-2014 Findings

F 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.

F 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.

2013-2014 Recommendations

R 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.

R 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.

4.0 City Finance Department's Operations

2012-2013 Finding 4.1.1: “The Finance Department under the prior city government did not provide other City departments with timely or accurate information regarding financial status of expenditures versus budget appropriations.”

- **Agency Response:** *"The respondent disagrees with this finding..."*

2012-2013 Finding 4.1.2: "Using the cumbersome and outdated financial software, few detailed financial reports have been prepared for the City Council because of the difficulty in extracting and arranging data in a meaningful manner."

- **Agency Response:** *"The respondent agrees that existing financial software is cumbersome and outdated. However, we disagree on the assertion the Council has received few reports. The software has been identified for replacement in the City's Technology Strategic Plan (CTSP)..."*

2012-2013 Finding 4.2: "Recommendations have been provided to the Stockton Civil Service Commission to upgrade selected staffing classifications and qualifications in the Finance Department; a CPA has recently been hired to augment the finance department's management. Additional classification reviews are needed to improve the overall qualifications and accounting capabilities of the department's employees."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding 4.3: "The complexity of City funds and accounts permitted prior city governments to move money among accounts without adequate tracking or knowledge of actual balances in the funds."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Recommendation 4.1: "No later than December 31, 2013, the City Council approve a study for an approach to replace or upgrade the finance operation's computer and software to current technology standards, and to develop a plan under the Direction of the City Manager and Chief Financial Officer to implement such a change."

- **Agency Response:** *"The respondent partially agrees with this recommendation."*

2012-2013 Recommendation 4.2.1: "No later than December 30, 2013, the City's Chief Financial Officer conduct a comprehensive review of the education and experience requirements of all classifications within the Finance Department and submit recommendation to the Civil Services Commission for approval of the changes."

- **Agency Response:** *"The respondent agrees with this recommendation."*

2012-2013 Recommendation 4.2.2: "No later than December 30, 2013, the City's Chief Financial Officer and City Manager prepare a training program with measurable outcomes for all Finance Department staff to improve their general finance and accounting skills and to provide for increased responsibility."

- **Agency Response:** *"The respondent agrees with this recommendation."*

2012-2013 Recommendation 4.3: "All proposals for the City Council to authorize inter-fund loans be accompanied with loan documents detailing obligations of the loan and any impacts on the City's General Fund."

- **Agency Response:** *"The respondent agrees with this recommendation."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding the *City Finance Department's Operations*. No further action required.

5.0 City Budget

2012-2013 Finding 5.1.1: "A director's management of his/her department's budget relies on timely and accurate information on expenditures versus budgeted amounts. Failure to have the information available to the directors reduces their ability to be financially accountable."

- **Agency Response:** *"The respondent agrees with this generic finding..."*

2012-2013 Finding 5.1.2 : "A City Manager requires timely and accurate financial information to provide oversight and control of expenditures versus appropriations, which was not readily available in the past."

- **Agency Response:** *"Again, given the antiquated financial systems, the City Manager gets quarterly reports on budget performance, however, the timelines of these could be improved, See response to R.5.1."*

2012-2013 Finding 5.2: "An identification of key performance indicators had not been clearly presented by the City Council to the public."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding 5.3: "Past City Councils were not kept informed of the extent to which departments were or were not adhering to their budget appropriation limits, or about the City's overall financial health."

- **Agency Response:** *"The respondent agrees with this finding in the past. However, the City Council has been kept informed on budgets and overall financial health more so than most cities in this state."*

2012-2013 Recommendation 5.1: "Department heads be held accountable by the City Manager to stay within Council's budget appropriations, with quarterly public reports prepared identifying and explaining all significant deviations."

- **Agency Response:** *"The respondent agrees with this recommendation..."*

2012-2013 Recommendation 5.2: "A public discussion and subsequent development of key performance indicators by the City Council with assistance from the City Manager, Chief Financial Officer and City Auditor, be completed prior to February 2014."

- **Agency Response:** *"The respondent agrees that key performance indicators would provide an excellent tool for monitoring budgets and financial and operating performance. Given the existing demands on a severely reduced workforce this recommendation will not be implemented as early as February 2014..."*

2012-2013 Recommendation 5.3: "Beginning with the Fiscal Year 2013-14 the City Manager and Chief Financial Officer provide the City Council a review of the budget expenditures at least quarterly, with a mid-year Council workshop to review the budget status in detail. When the key performance indicators have been established, they are to be included in the reviews. The requirement for these reports to be adopted as a City Council policy."

- **Agency Response:** *"The respondent partially agrees with this recommendation. Council currently receives quarterly budget updates on the general fund and related funds. In Fiscal Year 13-14 these quarterly updates will be expanded to include other major departments and funds..."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding the *Finance Department*. No further action required.

6.0 City Council Budget and Audit Committee

2012-2013 Finding 6.1: "Testimony from both elected and appointed City officials indicated the Audit Committee provided limited oversight of the City Auditor's function. Presentations on the annual financial audit were not detailed, and no witness recalled the Committee making inquiries into the External Auditor's results, findings or recommendations."

- **Agency Response:** *"The respondent partially agrees with this finding. Additional oversight of the City Auditor was conducted in closed session performance evaluations. The City of Stockton has taken and will take corrective action as described below in the response to R6.1.1 and R 6.1.2."*

2012-2013 Finding 6.2: "Appointment to and removal from the Budget Committee by the prior city government had been based on political alliance rather than interest or

knowledge of the City's fiscal activities, limiting the inquiries into the former management's activities."

- **Agency Response:** *"The respondent is not in a position to agree or disagree with this finding. The current Council cannot ascribe the motives or account for the skills sets of previous Councils."*

2012-2013 Recommendation 6.1.1: "No later than November 1, 2013 the City Council amend Council Policy No. 100-4 to create a single Finance Committee to replace the current budget and audit committees, to allow the new Committee's involvement with the FY 2012-13 CAFR review and the FY 2014-15 budget adoption. The purpose of the new Standing Committee would be to review in detail and make comprehensive recommendations to the whole City Council on financial matters including, but not limited to, those related to the City's budget; internal and external auditor reports; proposed bonds or loans; any proposed fee or tax increases or modifications; and modifications to the City's account and/or budget structures. The Committee should meet no less than quarterly."

- **Agency Response:** *"The respondent disagrees with this recommendation. Currently, the Audit Committee has expressed interest in reviewing their scope and responsibilities. In addition, given the financial condition of the City, the full Council has expressed an interest in hearing all financial issues as a body. Given the entire Council is immersed in the City's finance as we work our way out of bankruptcy, adding a Finance Committee is redundant and hugely time consuming for a greatly reduced staff. Staff is already stretched given competing demands. Having a committee weigh in on the budget and then the full Council, is simply redundant. This added measure will slow down efforts in other areas. In addition, as the financial condition of the City stabilizes, the Council will have to determine the appropriate process for reviewing financial information into the future. As this determination is made, staff will provide for Council adoption an amended Council Policy 100-4."*

2012-2013 Recommendation 6.1.2: "Prior to December 1, 2013 the City Council 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, in particular minimum effective oversight responsibilities."

- **Agency Response:** *"The respondent is not prepared to agree or disagree with this recommendation..."*

2012-2013 Recommendation 6.2: "By November 1, 2013 the City Council amend Council Policy 100-4 to set defined staggered and rotating two-year terms on the Finance Committee in order to bring fresh perspective to the committee's deliberations and to provide an opportunity for more council members to serve."

- **Agency Response:** *"The respondent disagrees with this recommendation..."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding the *City Council Budget and Audit Committee*.

During the Grand Jury's investigation, it was learned that information from the Audit Committee was not regularly shared with the full City Council. The Audit Committee of the City Council conducted seven meetings during 2013. However, the only reports that went to the full Council in 2013 were the acceptance of minutes for Audit Committee meetings of April 9, June 11 and September 23. No report went to the full City Council for the other four Audit Committee meetings in 2013. The Audit Committee was working with a document showing the City's actions in response to approximately 125 findings from various agencies but this information did not go to the full City Council in 2013. The Audit Committee passed a motion to approve the draft Audit Committee Charter and forward it to the full City Council. However, as of April 1, 2014, the City Council had not considered this matter.

When interviewed, City Council Members expressed interest in reviewing the scope and oversight of each committee of the Council.

2013-2014 Findings

F 6.1 The full City Council received limited information from the Audit Committee during 2013.

F 6.2 Since City Council Members have an interest in reviewing the Council, the City Council should conduct such a review.

2013-2014 Recommendations

R 6.1.1 Minutes of each Audit Committee meeting be included within 45 days as a City Council agenda item.

R 6.1.2 Major items discussed by the Audit Committee be included as an agenda item for full City Council discussion and/or action.

R 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.

7.0 Financial Training for City Council Members

2012-2013 Finding 7.1: “The degree of training and knowledge about municipal finance varies among the current council members who responded to the Grand Jury’s survey.”

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

2012-2013 Finding 7.2: “The current City Manager and CFO provide training on financial matters as they relate to issues being presented to the city council.”

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

2012-2013 Finding 7.3: “The lack of knowledge about municipal finance resulted in some council members not having the ability to ask questions or understand the financial information presented to them.”

- **Agency Response:** *“The respondent disagrees with this finding. The City recognizes that it can be difficult for some Council Members to become experts on municipal finance. All human beings have varying degrees of financial acumen. However, current management has taken great lengths to share transparent and complete information with the Council. The current Council has become well versed on the financial condition and the deficiencies of the financial condition of the City in a very short amount of time.”*

2012-2013 Recommendation 7.1: “The City Council submit a policy resolution for consideration during the League of California Cities (LCC) annual conference for the League 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:** *“Staff disagrees with this recommendation. The deadline for submitting League of California Cities was July 20, 2013. The City is supportive of municipal finance training for elected officials. However, given the demanding workload of the City, there were not sufficient resources to develop a LCC resolution prior to the July 20 deadline. Our priority is ensuring our Council as up to speed on financial matters, and they are.”*

2012-2013 Recommendation 7.2: “The City Manager and CFO develop a workshop for elected officials on municipal finance operations, structure, responsibilities and oversight drawing upon best practices developed by other cities and professional organizations (with the assistance from local educational institutions). The workshop shall be available to all newly elected members of the City Council during the period between when election results are known and the members assume office.”

- **Agency Response:** *“The respondent disagrees with this recommendation. The League of California Cities provides training for new Councils and it provides*

additional training options throughout the year. We have encouraged Council to utilize this source. The City is committed to providing extensive municipal finance training to elected officials. However, we question proscribing the precise format and venue. The current practice at the City includes the City Manager providing recently elected Council members with extensive information about the City's budget and finances and reviewing this information in personal meetings. In addition, there are continual efforts to ensure Council is comfortable with and understands the information presented to them. This occurs through weekly meetings with the City Manager, quarterly budget updates, study sessions on various topics and detailed staff and consultant reports that are issue specific. The extensive financial information in staff reports suggests the extent they are briefed on financial matters. One of the only benefits of our financial status, the City Council is conversant on financial matters of the City. Finally, financial acumen is like learning leaving a foreign language. A class doesn't help, regular practice does. Our practice in informing Council on financial matters is in the top tier of the state."

2012-2013 Recommendation 7.3: "No later than January 2014 the City Manager and CFO present bi-monthly workshops to educate elected city officials about the various operations and responsibilities of Stockton's financial operations."

- **Agency Response:** *"The respondent disagrees with this finding..."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding *Financial Training for the City Council*.

When interviewed, City Council Members expressed interest in the City submitting a request to the League of California Cities asking them to establish training programs for local elected officials on general municipal finance.

When interviewed, City Council Members expressed interest in the City offering a workshop on general municipal finance to all newly elected City officials at some time between the election and when they start their term.

2013-2014 Findings

F 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.

F 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.

2013-2014 Grand Jury Recommendations

R 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.

R 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.

8.0 Council and Manager Responsibilities and Oversight

2012-2013 Finding 8.1: "The behind the scenes actions and lack of complete and clear information from former city managers resulted in elected officials and the public having a false sense of confidence in the City's financial condition."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding 8.2: "Failure of prior City Council Members to request information about or to question actions by city managers and mayors raises concerns of whether actions were taken for the City's benefit or for personal/political gain."

- **Agency Response:** *"The respondent is not in a position to agree or disagree with this finding..."*

2012-2013 Recommendation 8.1: "The City Manager and his/her administrative staff provide detailed, timely, and accurate information supporting proposals with significant long-term financial implications for the City and that such documents be available to the public."

- **Agency Response:** *"The respondent agrees with this recommendation..."*

2012-2013 Recommendation 8.2: "Beginning immediately, ensure any proposals by the Council Members and the Mayor with long-term financial implications for the City be openly disclosed, explained and discussed for public review."

- **Agency Response:** *"The respondent agrees with this recommendation..."*

Discussion

The 2013-2014 Grand Jury received and reviewed the responses regarding *Council and Manager Responsibilities and Oversight*. No further action required.

Conclusion

The City of Stockton is now known internationally for declaring bankruptcy which at the time was the largest municipal bankruptcy in American history. The 2012-2013 Report *Recovering from Stockton's Financial Sinkhole – Don't Fall Back In* made many recommendations to help the City avoid falling back in. The 2013-2014 Grand Jury is pleased to state that the City has taken great strides to right its financial ship. However, the work is not finished.

This follow-up report identifies additional recommendations to help the City regain its financial stability. The City staff and elected officers must work together to make the huge strides still necessary for the City to truly be on the best financial track. The Stockton bankruptcy judge has stated concerns regarding the on-going pension obligation's financial impact on the City. Continued vigilance from elected officials, paid staff and the citizens of the community are critical to ensure that the City is successful. Stockton needs to do everything it can so that the City does not "fall back in."

Disclaimer

Grand Jury reports are based on documentary evidence and testimony of sworn and admonished witnesses, not conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon 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 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.

The City of Stockton shall respond to all 2013-2014 Findings and Recommendations contained in this report.

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.

San Joaquin County Grand Jury



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 describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding improving disposal of City and County surplus public assets throughout San Joaquin County. Described herein are the methods the 2013-2014 Grand Jury used to determine if the agencies responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agencies' responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The seven county agencies submitted their responses to the 2012-2013 Grand Jury Final Report during the period of July 17 to August 21, 2013. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

Cities and counties are authorized to purchase capital assets such as land, vehicles and equipment in order to function efficiently. When public land, buildings, vehicles or equipment are no longer needed by the local government, the governing bodies are responsible for being good stewards of the public's capital assets and getting the best possible return of public funds. Within the cities of Escalon, Lathrop, Lodi, Manteca,

Ripon, Stockton and Tracy and San Joaquin County there are different degrees of control over the disposition of their assets, as well as the extent to which the process is made known to the public. Some public entities are very conscientious, others less so. In an effort to promote public transparency and consistency while disposing of the capital assets, the 2012-2013 San Joaquin County Grand Jury (Grand Jury) recommends procedures be adopted by the local governments that are clear, consistent and provide to the public relevant information on the disposal process and results.

Glossary

Brown Act	The Ralph M. Brown Act (Government Code Sections 54950 <i>et seq.</i>) regulating the conduct of public meetings and related public information
Capital Asset	Land, buildings, vehicles and major equipment (e.g., generators, pumps) having a multi-year useful life
<i>et seq.</i>	To include sections that immediately follow the identified section and pertaining to the same topic
Fiscal Year (FY)	Local government budget year beginning on July 1 and ending on the following June 30
California Government Code Section 37350	Authorizes a city to dispose of real and personal property for the common benefit
California Government Code Section 54222	Requires local governments to contact park departments, affordable housing developers, school districts and other agencies about available surplus land that could be used for housing or recreation purposes prior to sale of the land
Negotiated Sale	Direct discussions between a government and a private entity about the terms and conditions of sale of a capital asset, including price
Personal Property	Assets that are not real property, including office equipment, furnishings, etc.
Real Property	Land and buildings
Surplus Property	Capital assets that are no longer needed or useable

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the responses to the findings and recommendations, requested additional documentation, conducted interviews and reviewed various websites

to determine if the agencies responded appropriately to the 2012-2013 Grand Jury recommendations.

Findings, Recommendations, Agency Responses and Grand Jury Results

City of Escalon

2012-2013 Finding 1.1: "The City of Escalon has no adopted Municipal Code provision, policy or procedure related to the disposal of major capital assets stating who has authority, the methods to follow or the reporting requirements."

- **Agency Response:** *"The City agrees with the finding."*

2012-2013 Finding 1.2: "The contractual agreement with the private auction firm hired by the City was a form provided by the company containing very limited information such as protection for the City and fees to be paid."

- **Agency Response:** *"The City agrees with the finding."*

2012-2013 Finding 1.3: "The disposal of land was by negotiated sale, with all discussions held in closed session. Only the minimum information required by the Brown Act was disclosed on the Agenda."

- **Agency Response:** *"The City agrees with the finding. This is expressly authorized by Government Code 54956.8."*

2012-2013 Finding 1.4: "No information on the details of the land sale was provided to the public prior to the City Council's public action."

- **Agency Response:** *"The City agrees with the finding."*

2012-2013 Recommendation 1.1: "Prior to December 2013 the City Council adopt either an ordinance or a policy detailing procedures to be used for the disposal of surplus capital assets, including who is responsible for the disposal, when City Council approval is required, notification requirements, what information is made available to the public and how such information it is to be presented."

- **Agency Response:** *"The City agrees with the recommendation."*

2012-2013 Recommendation 1.2: "No later than September 30, 2013, the City adopt a contract document to be used for all sales of surplus vehicles and equipment that provides a clear indication of the fee to be paid the selling firm, protections for the City against

claims resulting from the auction, liabilities and responsibilities of all parties and other legal protections of the City's interests."

- **Agency Response:** *"The City agrees with the recommendation."*

2012-2013 Recommendation 1.3: "After each sale of vehicles or equipment the City manager is to provide a summary of the sale through a public document."

- **Agency Response:** *"The City agrees with the recommendation."*

2012-2013 Recommendation 1.4: "No later than September 30, 2013, the City adopt a policy for disposition of surplus land and buildings to include when appraisals are to be conducted, the procedures for compliance with Government Code Section 54220 *et seq.*, and a prior public disclosure of the proposed sale."

- **Agency Response:** *"The City agrees with the recommendation."*

2012-2013 Recommendation 1.5: "Before any future disposal of land or buildings is finalized, a report is provided to the City Council in open session that includes the purpose of the sale; evidence of compliance with applicable State laws; the full identity of the purchaser; the total sale price; and, if the sale price is less than the appraised value, the reason for the difference."

- **Agency Response:** *"The City disagrees with the recommendation. Direction to dispose of real property is expressly authorized as a closed session action per Government Code 54956.8."*

Discussion and Conclusion for City of Escalon

The 2013-2014 Grand Jury received and reviewed the responses from the City of Escalon. No further action required.

City of Lathrop

2012-2013 Finding 2.1: "The surplus property policy has no reference to compliance with Government Code Sections 54220 *et seq.*"

- **Agency Response:** *"Agreed."*

2012-2013 Recommendation 2.1: "No later than September 30, 2013 the City 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 of Lathrop's existing policy complies with the Government Code Section 54220 et. seq. and all other laws regulating disposition of surplus land and buildings. Council does not consider it necessary to adopt a new policy."*

2012-2013 Recommendation 2.2: "Before any future disposal of land or buildings is finalized a report is provided to the City Council in open session that includes the purpose of the sale; evidence of compliance with applicable State laws; the full identity of the purchaser; the total sale price; and, if the sale price is less than the appraised value, the reason for the difference."

- **Agency Response:** *"The City's Policy regarding disposition of surplus assets meets the requirements of state law and council does not consider it necessary to revise its policy."*

Discussion and Conclusion for City of Lathrop

The 2013-2014 Grand Jury received and reviewed the responses from the City of Lathrop. The City's existing policy specifically states, "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 Finding

F 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.

2013-2014 Recommendation

R 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.

R 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.

City of Lodi

2012-2013 Finding 3.1: "The staff report for land sale to the housing developer provided very little information. The public must read through an attached long and comprehensive agreement containing many legal requirements in order to obtain basic information on land sale, such as sale price versus appraisal value."

- **Agency Response:** *"In reviewing the staff report for the Tienda Affordable Housing Project sale, the City Council agrees that the property sale information could have been more fully addressed. The sale was a small part of a much larger transaction whereby the City granted money to a non-profit housing developer to use toward the purchase and construction of an affordable housing project on City land. The discussion regarding the land sale portion of the project did indeed take up only a very small end portion of a complicated staff report. Although the sale had been discussed at prior Council meetings in more detail and with more prominence (see attached staff reports), Council agrees that the final staff report could have included greater detail on the sale portion of the transaction. Two of the recommendations by the Grand Jury are in fact required by state law: That the property buyer be identified and that the sale price be identified. Those two requirements were met by the staff reports."*

2012-2013 Grand Jury Recommendation 3.1: "Before any future disposal of land or buildings is finalized a report is provided to the City Council in open session that includes the purpose of the sale; evidence of compliance with applicable State laws; the full identity of the purchaser; the total sale price; and, if the sale price is less than the appraised value, the reason for the difference."

- **Agency Response:** *"Council also agrees that the remaining grand jury recommendations represent good practices to ensure public transparency when public real property is sold and directs staff to implement them in future land sale staff reports."*

Discussion and Conclusion for City of Lodi

The 2013-2014 Grand Jury received and reviewed the responses from the City of Lodi. No further action required.

City of Ripon

2012-2013 Finding 5.1: "Ordinance No. 110 establishing provisions for purchasing and disposal of personal property and capital assets by the City of Ripon was adopted in 1958. Procedures related to the disposal are vague and do not clearly address either an adopted policy or procedure. Requirements for the sale of land and buildings are not

addressed in a manner that can be easily understood by the public, nor are there clearly defined procedures.”

- **Agency Response:** *“The City’s municipal code will be updated to address the disposition of surplus property in a manner that can be more easily understood by the public.”*

2012-2013 Finding 5.2: “Staff reports at the time real property is sold do not contain sufficient information to inform the public about the proposed transaction.”

- **Agency Response:** *“The City will continue to utilize detailed staff reports and strengthen procedures for the disposition of surplus property at public meetings in order to adhere state law.”*

2012-2013 Recommendation 5.1: “No later than December 1, 2013, the Municipal Code be reviewed and amended to clarify the distinction between purchase and sale of City property, and to update disposition procedures, clarifying the process for disposal of surplus vehicles and equipment.”

- **Agency Response:** *“On or before December 1, 2013, the City’s municipal code will be reviewed and updated to clarify distinctions between the purchase and sale of City property, to update disposition procedures, and to clarify the process for disposal of surplus vehicles and equipment.”*

2012-2013 Recommendation 5.2: “No later than September 30, 2013, the City adopt a contract document to be used for all sale of surplus vehicles and equipment that provides a clear indication of the fee to be paid the selling firm, protections for the City against claims resulting from the auction, liabilities and responsibilities of all parties, and other legal protections of the City’s interests.”

- **Agency Response:** *“No later than September 30, 2013 the City adopt a contract, drafted by the City Attorney’s office, to be used for all sale of surplus vehicles and equipment that provides a clear indication of the fee to be paid and which indemnifies the City against claims resulting from the auction, which may affect City interests.”*

2012-2013 Recommendation 5.3: “No later than September 30, 2013, the City 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:** *“On or before September 30, 2013 the City shall adopt a policy for disposition of surplus land and buildings which complies with Government Code Section 54220, *et seq.*”*

2012-2013 Recommendation 5.4: “Before any future disposal of land or buildings is finalized a report is provided to the City Council in open session that includes the

purpose of the sale; evidence of compliance with applicable State laws; the full identity of the purchaser; the total sale price; and, if the sale price is less than the appraised value, the reason for the difference.”

- **Agency Response:** *“In accordance with the policy that the City will adopt as stated in Response to Recommendation 5.3, the city will continue to utilize detailed staff reports and strengthen the process for the future disposal of land or building which adhere to the public disclosure requirements of state law.”*

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Discussion and Conclusion for City of Ripon

The 2013-2014 Grand Jury received and reviewed the responses from the City of Ripon. No further action required.

City of Stockton

2012-2013 Finding 6.1: “Correspondence between the City and the State Department of Justice in October 2011 indicated that the State’s contract agreement with private auction firms might be terminated because of state budget cuts. There was no indication if the matter has been resolved. Since the state agreement is comprehensive and benefits the City, an alternative agreement should be available for the City’s use.”

- **Agency Response:** *“The respondent agrees with the finding. Corrective action is being taken as described in the response to recommendation 6.1.”*

2012-2013 Finding 6.2: “Stockton Code Section 3.60.010 requires the City manager to present the City Council a report on personal property sales valued under \$20,000. There is no indication whether the report is to be a public document. A written response from the City indicated that in the past the information was included in a weekly newsletter provided to the City Council. No surplus property sales took place between 2008 and 2010; however, a sale that occurred in 2011 was not reported as required by Municipal Code. The City indicated they were in the process of updating their surplus property sale procedures.”

- **Agency Response:** *“The respondent agrees with the finding. The City held three auction sales of properties in 2011. After the City’s newsletter was terminated due to staffing cuts, staff did not pursue an alternative reporting mechanism. However, these 2011 sales will be reported to Council by October 31, 2013. Appropriate personnel actions were taken with staff following this incident. While this correction will satisfy the immediate reporting requirement, at this time the City of Stockton does not have well-developed implementation guidelines to define “personal property”, “value”, “e-Waste” and other key terms and procedures in interpreting the code and intent of the law. In addition, the City does not have a well-developed process and*

reporting schedule for the sale of surplus property. Corrective action is being taken as described in the response to recommendation 6.2."

2012-2013 Recommendation 6.1: "The City Council direct the City Attorney to prepare no later than November 1, 2013, a comprehensive auction agreement for use by the City."

- **Agency Response:** *"The respondent agrees that the auction services that were previously used were through a state contract which is no longer supported by the state and is expired. However, due to economic conditions and limited staffing resources there were only 3 sales in the last 5 years, all of which occurred in 2011, before the state contract expired. The City is in the process of developing internal policies and procedures for the sale of surplus property and will be soliciting bids and evaluating other agency cooperative agreements for a replacement auction firm. This will be completed prior to November 1, 2013."*

2012-2013 Recommendation 6.2: "Effective immediately the City Manager's report on surplus personal property sales pursuant to Municipal Code Sec. 3.60.010 be prepared as a public document presented at a regular City Council meeting."

- **Agency Response:** *"The respondent agrees that these sales were not reported to City Council, as defined by the Stockton Municipal Code. The city has developed an action plan to improve the internal controls over sale of surplus property and reporting of surplus sales as well as to improve operating efficiencies. By no later than December 31, 2013 the Administrative Services Department will:*
 - *Develop an administrative directive that will clarify the definitions associated with surplus property.*
 - *Develop definitions and guidelines specific to eWaste.*
 - *Establish a reporting mechanism for sale of surplus property of less than \$20,000 that identifies surplus items sold, upcoming auctions and the City's corresponding and governing policies and directives. For efficiency purposes this will likely be done through the City's website rather than presented at a City Council meeting.*
 - *Define a reporting structure for all decentralized surplus property sales, such as those sold by the Police Department or Economic Development Department, Real Property Division, so that all sales of surplus property are reported to the Purchasing Division."*

Discussion and Conclusion for City of Stockton

The 2013-2014 Grand Jury received and reviewed the responses from the City of Stockton. A copy of the comprehensive auction agreement was reviewed. No further action required.

City of Tracy

2012-2013 Finding 7.1: "The City of Tracy has no procedures manual or clearly defined procedures for the disposition of surplus vehicles and equipment. While no indications of any questionable actions were identified, the lack of clear and transparent procedures could raise concerns about the public's interest being protected."

- **Agency Response:** *"The City agrees with the finding."*

2012-2013 Finding 7.2: "The agreement with the private auction firm contained limited protection for the City against claims or other possible legal actions resulting from the auction."

- **Agency Response:** *"The City agrees with the finding."*

2012-2013 Recommendation 7.1: "That prior to December 1, 2013, the City adopt procedures related to the disposition of vehicles and equipment, including who is responsible for the disposal, when council approval is required, notification requirements and information made available to the public."

- **Agency Response:** *"The recommendation will be implemented by December 1, 2013."*

2012-2013 Recommendation 7.2: "That the City Council direct the City Attorney to review the current agreement used for sale of surplus vehicles and equipment to ascertain its protection of City interests, or prepare a new sale agreement to be used by the City. The City Attorney's report to and action by the City Council is to occur prior to November 1, 2013."

- **Agency Response:** *"The recommendation will be implemented by November 1, 2013."*

Discussion and Conclusion for City of Tracy

The 2013-2014 Grand Jury received and reviewed the responses from the City of Tracy. A copy of the City's Administrative Procedure for the Disposal of Surplus Property was reviewed as well as the agreement used by the City for the sale of surplus vehicles and equipment. No further action required.

San Joaquin County

2012-2013 Finding 8.1: "There was no indication from the County materials received that a public disclosure of the results of sales of surplus vehicles and equipment was made. Unless the Board of Supervisors was the authorizing agent for the sale pursuant to the County Administrative Manual, the process is handled completely at an administrative level."

- **Agency Response:** *"Agree. In order to decrease costs, this process is handled at an administrative level and the information is retained within the Purchasing Department."*

2012-2013 Finding 8.2: "The County indicated that it does not have a policy requiring independent appraisals of real property it sells because there is no requirement for an appraisal under the Government Code. This lack of information makes it difficult for the public to determine if the sale was in the public interest."

- **Agency Response:** *"Disagree. Real property is sold at market value with a bidding process. Appraisals are subjective and would create an added delay to the sale of property by approximately six weeks."*

2012-2013 Recommendation 8.1: "Beginning September 30, 2013 the County Administrative Officer provide a quarterly public report to the Board of Supervisors summarizing the disposals of vehicles and equipment during the preceding quarter. The report should include the amount of revenues derived from the sales."

- **Agency Response:** *"This recommendation will not be implemented. Given recent Board direction with Delegated Authority, in an effort to streamline the disposal process, the County Administrator will not be providing a quarterly report to the Board of Supervisors. However, based upon the Grand Jury's recommendation, the Purchasing department will now file annual report with the Clerk of the Board that will be available to the public. This report will be filed around September 1 and will cover the preceding fiscal year. As was evident in the documentation provided to the Grand Jury, the Purchasing department is the repository for such information."*

2012-2013 Recommendation 8.2: "No later than December 1, 2013 the County Board of Supervisors amend the County's Administrative Manual regarding procedures for disposal of surplus land and buildings to include a policy for when an appraisal of the property/building shall be required."

- **Agency Response:** *"The recommendation will not be implemented. The County Administrative Manual is updated on an as needed basis. The County will review Section 2711.1-2711.7 and determine if further clarification and specification should be accommodated."*

Discussion and Conclusion for San Joaquin County

The 2013-2014 Grand Jury received and reviewed the responses from San Joaquin County. Although the County stated Recommendation R 8.1 would not be implemented, the Annual Report on Surplus and Miscellaneous Property Disposal was developed and reviewed by the Grand Jury. The County also responded by saying Recommendation R 8.2 would not be implemented but since has stated that the Manual will be updated to more clearly state the procedures for the sale and disposal of real property. No further action required.

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 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.

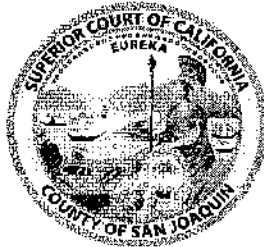
The City of Lathrop shall respond to Finding 1.1 and to Recommendations 1.1 and 1.2 contained in this report.

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.

San Joaquin County Grand Jury



Follow-up Report to the 2012 - 2013 San Joaquin County Grand Jury Case No. 0412 Fractured Oversight Fails to Serve At-Risk Youth

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding At-Risk Youth in Group Homes throughout San Joaquin County. Described herein are the methods the 2013-2014 Grand Jury used to determine if the San Joaquin County's Child Protective Services (CPS) responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agency submitted its response to the 2012-2013 Grand Jury Final Report on July 30, 2013. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

The 2012-2013 Grand Jury (Grand Jury) received a citizen's complaint about alleged inappropriate activities in a Group Home located in San Joaquin County. Following initial review of the complaint, the Grand Jury expanded its investigation to a review of how well At-Risk Youth are being cared for in Group Homes throughout San Joaquin County.

There are 21 Group Home Providers operating 44 Group Homes within the County licensed by the California Community Care Licensing Division (CCLD). The Grand Jury

investigated six of those Providers who operate a combined 28 homes in the County. In addition, the Grand Jury reviewed the role and responsibilities of the following designated Group Home oversight agencies: CCLD, San Joaquin County's Child Protective Services (CPS), a division of San Joaquin County's Human Services Agency (HSA), and the County's Probation Department.

At the conclusion of its investigation, the Grand Jury found that some Group Homes are well managed, following regulations aimed at protecting the youth and giving them a positive formative life experience. Other Group Homes appear to be operated on a financially motivated basis with lax adherence to regulations. The oversight of the Group Homes within San Joaquin County was intended by State regulations to be a collaborative effort with CCLD, HSA/CPS and the Probation Department involvement; the Grand Jury determined that these agencies are not as effective as they could be, and not to the extent required by State law and regulations.

Taken together, the issues revealed as a result of this investigation bring into question the overall effectiveness of the current oversight of Group Home Providers by the very agencies that have been charged with providing a positive life experience for the youth they serve.

The findings in this report address the collective effects of reduced audits conducted by CCLD, Group Home Providers not in compliance with Mandatory Reporting laws, improper Incident/Injury Reporting, incorrect Staff to Youth Ratio's and non-adherence to annual training requirements.

It is imperative that HSA/CPS and the Probation Department create and implement a Group Home Monitoring Program to include a comprehensive and enforceable Placement Agreement.

Glossary

CCLD	State of California Community Licensing Division – responsible for oversight of group homes in the State
CPS	San Joaquin County Child Protective Services: a Division of the San Joaquin County Human Services Agency
<i>Group Home Placement Agreement Addendum</i>	San Joaquin County Form CWS-171, new requirements as of February 1, 2014, that group homes must meet
HSA	San Joaquin County Human Services Agency

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the responses from the agency and interviewed County staff.

Findings, Recommendations, Agency Responses and Grand Jury Results

1.0 Community Care Licensing Divisions Role

2012-2013 Finding 1.1: "Citing budget cuts, CCLD's fulfillment of its regulatory and oversight role has deteriorated to the point of allowing some Group Homes to go unmonitored or un-inspected for periods of up to four years."

- **Agency Response:** "Agree"

2012-2013 Finding 1.2: "There is no indication that CCLD provides follow-up review of the Group Home's Program Statement to assure that it is in compliance with new laws or regulations."

- **Agency Response:** "Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree."

2012-2013 Finding 1.3: "HSA/CPS and Probation do not receive copies of CCLD inspections unless they specifically request them"

- **Agency Response:** "Agree"

2012-2013 Finding 1.4: "HSA/CPS and Probation do not routinely receive copies of investigations of Group Home violations by CCLD."

- **Agency Response:** "Agree"

2012-2013 Finding 1.5: "Investigations and inspections do not take place on weekends or after regular business hours."

- **Agency Response:** "Agree"

2012-2013 Finding 1.6: "Investigations of major incidents are not always handled by CCLD in a timely manner."

- **Agency Response:** “Agree”

2012-2013 Finding 1.7: “CCLD performed unannounced audits of 21 of the 28 Group Homes under Grand Jury review between February 21, 2013, and March 20, 2013.”

- **Agency Response:** “Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree.”

2012-2013 Finding 1.8: “CCLD issued 34 citations to the Group Homes under Grand Jury review between February 21, 2013, and March 20, 2013.”

- **Agency Response:** “Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree.”

2012-2013 Recommendation 1.1: “Within 90 days, CPS and Probation submit a written request to CCLD that it fulfill statutory requirements for annual Inspections of all Group Homes in San Joaquin County.”

- **Agency Response:** “The recommendation has been implemented. Per regulation 80044 (Inspection Authority of the Licensing Agency) of the state of California...visit a community care facility less often than once every five years. On July 13, 2013, a joint letter was sent by San Joaquin County Children's Services and Probation to Community Care Licensing request CCLD adhere to the above requirements. (See attached letter.)”

2012-2013 Recommendation 1.3: “Within 90 days, CPS and Probation submit a written request to CCLD clearly stating the requirement for immediate notification from CCLD of all investigations and/or inspections being conducted on Group Homes in the county, including correction plans and follow-up reports.”

- **Agency Response:** “The recommendation has been implemented. On July 13, 2013, a joint letter was sent by San Joaquin County Children's Services and Probation to Community Care Licensing request CCLD immediately being provided ... pertaining to every group home in San Joaquin County. (See attached letter.) CPS and Probation will keep copies of CCLD documentation of investigations so that it is available to staff and supervisors involved with residential placement youth.”

2.0 Group Home Approval Process and Operations

2012-2013 Finding 2.1.1: “The distribution of the AFDC-FC Funds flow through HSA and are tied to a one page Placement Agreement between the Group Home Provider and HSA/CPS and or Probation Department.”

- **Agency Response:** "Agree"

2012-2013 Finding 2.1.2: "Neither HSA/CPS nor the Probation Department has the ability to rescind their original Host Letter. The only recourse a placement agency has with a non-compliant Group Home Provider is removal of the At-Risk Youth from the home and placing them elsewhere."

- **Agency Response:** "Agree"

2012-2013 Finding 2.3: "Review of documents and sworn testimony revealed a number of providers were not operating in compliance with their approved Program Statements."

- **Agency Response:** "Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"

2012-2013 Finding 2.4: "There is a lack of comprehension and/or a misinterpretation of Group Home Providers and their staff regarding their obligations under the Mandatory Reporting Laws."

- **Agency Response:** "Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"

2012-2013 Finding 2.5.1: "Many State required incident report forms reviewed were filled out incompletely; specifically, the check-off sections indicating whether or not reporting requirements had been met."

- **Agency Response:** "Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"

2012-2013 Finding 2.5.2: "Cases reviewed reveal some incident reports were made by a supervisor, not necessarily the employee who witnessed the incident. This has resulted in delays in submitting the reports to CCLD, HSA/CPS and Probation."

- **Agency Response:** "Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"

2012-2013 Finding 2.5.3: "Unusual Incident/Injury Reports were found not to have been signed by both the writer and reviewer, as required by CCR's."

- **Agency Response:** No response was provided.

2012-2013 Finding 2.5.4: "Some Supervisors modified reports prior to submittal to CCLD."

- **Agency Response:** *"Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"*

2012-2013 Finding 2.5.5: "Many Unusual Incident/Injury Reports failed to indicate if any follow-up had been undertaken to determine why the youth had run away."

- **Agency Response:** *"Agree."*

2012-2013 Finding 2.6.1: "Facility Managers and staff from both large and small Group Homes were unaware of State's minimum staffing ratio requirements."

- **Agency Response:** *"Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"*

2012-2013 Finding 2.6.2: "Caregiver's testimony revealed they were occasionally required to care for up to six youths by themselves, which they attributed to an increase in the number of runaways during the periods of understaffing."

- **Agency Response:** *"Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"*

2012-2013 Finding 2.7.1: "A number of caregivers were terminated by Group Home Providers during the period of 2007 through 2012 for sexual misconduct or violations of the At-Risk Youths' personal rights."

- **Agency Response:** *"Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"*

2012-2013 Finding 2.7.2: "Group Home Providers are not required to conduct their own review of National Sex Offender registries as part of their hiring process."

- **Agency Response:** *"Agree."*

2012-2013 Finding 2.8: "Some Group Home Providers have created their own Non-Public School (NPS) to educate the special education youth in their charge."

- **Agency Response:** *"Agree."*

2012-2013 Finding 2.9: "A Group Home Provider changed the educational placement of a county-placed youth without notification or consent of the placement agency."

- **Agency Response:** *"Partially disagree. San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree"*

2012-2013 Recommendation 2.1.2: "Within six months, HSA/CPS and Probation revise its current Placement Agreement with Group Homes to include a provision that HSA/CPS and Probation have a contractual right to rescind a Host Letter."

- **Agency Response:** *"The recommendation will be implemented partially. HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement."*

"As to this specific recommendation, it is important to understand that the right to rescind a Host Letter provides no leverage. While a Host Letter is required to start the licensing process, it becomes irrelevant once the license is operational. The only mechanism to impact a group home's operation once that facility has been licensed is through the CCL complaint process: investigation, corrective action if indicated and further follow up, etc. The facility then has the right to an administrative hearing and due process."

2012-2013 Recommendation 2.3: "Within six months, HSA/CPS and Probation develop a new comprehensive Placement Agreement including an on-site inspection process to ensure that Group Home Providers are in full compliance with their State approved Program Statements."

- **Agency Response:** *"The recommendation will be implemented partially. HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement."*

"Neither County agency possesses the necessary staffing to adequately implement a program of oversight that would fulfill this recommendation of the Grand Jury. Placement staff from both agencies will, however, follow up on Special Incident Reports as well as all concerns noted by San Joaquin-placed youth."

2012-2013 Recommendation 2.4: "Within six months, HSA/CPS and Probation include, within the more comprehensive Placement Agreement, a requirement that all Group Home Providers use the Mandatory Reporter training program known as the Child Abuse Mandated Reporter Training Project. Further, those Certificates of successful completion be maintained within the Group Home Providers employees individual training records, as required by law."

- **Agency Response:** *"The recommendation will be implemented partially."*

"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement.

"Reiteration of group home responsibility to provide staff Mandated Reporter Training in accordance with Group Home Licensing Manual, Title 22, Division 6, Chapter 5 requirements will be addressed."

2012-2013 Recommendation 2.5.2: "Within six months, Placement Agreements between HSA/CPS, Probation and the Group Homes require Group Homes to notify the Placement Agency of any incidents/ violations at the same time as CCLD is notified, and within the timelines required by CCR's."

- **Agency Response:** *"The recommendation will be implemented partially.
"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement.*

"Reiteration of group home responsibility to report incidents to CCL and the placing agency within regulatory time frames contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 2.5.3: "Within six months, revise the Placement Agreement to require employees witnessing incidents involving youth to sign-off on all reports submitted to CCLD, HSA/CPS and Probation, as required by law."

- **Agency Response:** *"The recommendation will be implemented partially.
"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement.*

"Reiteration of the expectation that group homes will meet their responsibility to adhere to CCL group home regulations regarding incident report verification contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 2.6.2: "Within six months, Placement Agreements be revised to include requirements that Group Home Social Workers be required to investigate the reason/s a youth had run away and provide follow up reports to the CCL, HSA/CPS and Probation on their findings or impressions, to include staffing levels at the time the runaway took place."

- **Agency Response:** *"The recommendation will be implemented partially.
"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement.*

"Reiteration of the expectation that group homes will meet their responsibility to adhere to CCL group home regulations regarding runaway reporting requirements contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 2.7.2: "HSA/CPS and Probation require Group Home providers to include as part of fulfilling their Background Check requirements, the search of the National Sex Offender Registry for the names of prospective employees and provide documentation to substantiate that action on the appropriate form."

- **Agency Response:** *"The recommendation will not be implemented. Community Care Licensing requires a Department of Justice clearance and FBI background clearance. These clearances meet or exceed State licensing requirements and are national in scope."*

2012-2013 Recommendation 2.8: "Within 60 days, HSA/CPS and Probation request the San Joaquin County Board of Education review all Non-Public Schools associated with owners of Group Homes to ensure the goals, recommendations, and objectives of the IEP's are being met by appropriately credentialed staff."

- **Agency Response:** *"The recommendation has been implemented..."*

3.0 Group Home Administrator and Caregiver Qualifications and Training

2012-2013 Finding 3.1: "An alarming number of Administrators demonstrated a lack of comprehension and/or a misinterpretation of their, as well as their staff's obligations, under the Mandatory Reporting Laws."

- **Agency Response:** *"Partially disagree.
"San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree."*

2012-2013 Finding 3.2: "Some Administrators responsible for multiple Group Homes throughout the County seldom visit these individual homes."

- **Agency Response:** *"Partially disagree.
"San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree."*

2012-2013 Finding 3.3: "One Administrator, by standing practice, had delegated most of the Administrative responsibilities to an individual classified as a Facility Manager who did not possess the prerequisite education or certification, in violation of CCR's."

- **Agency Response:** *"Partially disagree."*

"San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree."

2012-2013 Finding 3.4: "Compliance for attendance at weekly training sessions developed to meet state mandated annual training requirements varied among the group homes."

- **Agency Response:** *"Partially disagree.
"San Joaquin County Children's Services and Probation do not possess sufficient information relative to this finding to agree or disagree."*

2012-2013 Finding 3.5: "Some Caregivers who worked the night shift as well as those who were employed on a part-time basis did not regularly attend the weekly training sessions provided by the Provider. Nor were they required to make-up any sessions they failed to attend in order to comply with the 40 hour annual training requirement, as required by CCR's."

- **Agency Response:** *The agency did not respond to this Finding.*

2012-2013 Recommendation 3.1.1: "Within six months, HSA/CPS and Probation develop an enhanced Placement Agreement to include the requirement that all Group Home Administrators complete the Mandatory Reporter training program developed by CDSS and the Office of Child Abuse Prevention (OCAP) (known as the Child Abuse Mandated Reporter Training)."

- **Agency Response:** *"The recommendation will be implemented.
"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement."*

Reiteration of the expectation that Group Home Administrators to comply with the requirements for Mandated Reporter Training contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 3.1.2: "Within six months, HSA/CPS and Probation develop a strengthened Placement Agreement that requires certificates proving successful completion of Child Abuse Mandated Reporter Training be maintained within the Group Home Providers Administrators training records for all employees."

- **Agency Response:** *"The recommendation will be implemented partially.
"HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement."*

"Reiteration of the expectation that Group Home Providers to comply with the requirements for Mandated Reporter Training records for staff in their employ as

required in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 3.2: "Within six months, HSA/CPS and Probation develop a new strengthened Placement Agreement to include the requirement for Group Home Administrators to visit each Group Home within their organization, no less than every 60 days, to ensure that all provisions of their Program Statements and the CCR's are fully adhered to and in compliance."

- **Agency Response:** *"The recommendation will be implemented partially. "HSA/CPS and Probation will work with County Counsel to create addendums where feasible to address concerns stated in the Grand Jury report related to the Group Home Placement Agreement."*

"Reiteration of the expectation that Group Home Providers to comply with the requirements for Mandated Reporter Training records for staff in their employ as required in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5 will be addressed."

2012-2013 Recommendation 3.3: "Within four months, HSA/CPS and Probation conduct a review of the qualifications and duties being performed by Group Home Facility Managers."

- **Agency Response:** *"The recommendation will not be implemented. "Neither County agency possesses the necessary staffing to adequately implement a program of oversight that would fulfill this recommendation of the Grand Jury. To re-allocate existing staff from child protection (CPS) and community safety (Probation) would place children or the public at greater risk by providing duplicative oversight of institutions where children be placed who are already reasonably safe in those settings."*

2012-2013 Recommendation 3.4: "Within three months, HSA/CPS and Probation implement a program to randomly review Training records to ensure all employees meet the CCR's training requirements."

- **Agency Response:** *"The recommendation will not be implemented. "Neither County agency possesses the necessary staffing to adequately implement a program of oversight that would fulfill this recommendation of the Grand Jury. To re-allocate existing staff from child protection (CPS) and community safety (Probation) would place children or the public at greater risk by providing duplicative oversight of institutions where children are placed who are already reasonably safe in those settings."*

4.0 CPS and Probation Department Roles

2012-2013 Finding 4.1: “The contractual relationship between the Group Home Providers, HSA/CPS and Probation is the execution of a one page Group Home Placement Agreement which is inadequate to provide sufficient detail of living environment and allow for proper enforcement and oversight of the Group Home Providers and the At-Risk Youth that reside in them.”

- **Agency Response:** *“Disagree. The current Placement Agreement document is child oriented and places specific responsibilities on each of the participants (County agency and group home) for provision of services and adherence to regulation. The Social Worker and/or Probation Officer can and does provide enforcement and oversight of the group home activities impacting the child. They have recourse including removing a child and in the future, no longer utilizing facilities that do not meet County expectations.”*

2012-2013 Finding 4.2: “CPS Social Workers and/or Probation Officers are required to visit their At-Risk Youth at least once a month, but they do not always comply with that requirement.”

- **Agency Response:** *“Agree.”*

2012-2013 Finding 4.2.1: “CPS Social Workers and/or Probation Officers visitations with the At-Risk Youth may take place other than at the Group Home.”

- **Agency Response:** *“Agree. Social Workers and Probation Officers complete the vast majority of their in-person compliance visits with minors in residential care according to regulatory requirements. Failure to meet this standard is infrequent, usually confined to out-of-state visits and often due to unusual circumstances such as weather that impacts visits to Midwestern, eastern or mountain states during winter. Occasionally compliance is not completed in-state or out-of-state due to the availability of the minor.”*

2012-2013 Recommendation 4.1: “Within six months, HSA/CPS and Probation develop a comprehensive and detailed Group Home Placement Agreement.”

- **Agency Response:** *“The recommendation will be implemented partially. The County agencies will endeavor to create placement agreement addendums incorporating a number of the foregoing recommendations of the Grand Jury as to the expectation that group homes will meet their responsibility to adhere to CCL group home regulations contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5.”*

2012-2013 Recommendation 4.2: “Beginning immediately, CPS Social Workers and/or Probation Officers establish and maintain a 30 day schedule for youth visitations and conduct on-site visits at the Group Home facility at least every 60 days.”

- **Agency Response:** *"The recommendation has been implemented. Social Workers and Probation Officers adhere to a schedule of monthly in-person compliance visits with minors in residential care according to regulatory requirements."*

5.0 Enhanced Monitoring and Oversight

2012-2013 Finding 5.1.1: "Five counties in California have instituted enhanced local oversight of the Group Homes within their jurisdictions to provide better services and protection for At-Risk Youth in an effort to fill the void created by the State's deteriorating oversight."

- **Agency Response:** *"Agree."*

2012-2013 Finding 5.1.2: "HSA/CPS and Probation management would embrace a collaborative approach to enhancing the Monitoring of Group Home Providers."

- **Agency Response:** *"Agree."*

2012-2013 Recommendation 5.1.1: "Within 90 days, HSA/CPS and Probation, in conjunction with the Department of Human Resources, initiate the establishment of an enhanced Group Home Monitoring Program in San Joaquin."

- **Agency Response:** See below for response to this Recommendation.

2012-2013 Recommendation 5.1.2: "Within six month, HSA/CPS and Probation, in conjunction with the Department of Human Resources implement an enhanced Group Home Monitoring Program in San Joaquin County."

- **Agency Response to Recommendation 5.1.1 and Recommendation 5.1.2:** *"The recommendation will not be implemented.
"Neither County agency possesses the necessary staffing to adequately implement a program of oversight that would fulfill this recommendation of the Grand Jury. To re-allocate existing staff from child protection (CPS) and community safety (Probation) would place children or the public at greater risk by providing duplicative oversight of institutions where children are placed who are already reasonably safe in those settings.
"To establish a Group Home Monitoring Program in San Joaquin County would restrict both HSA/CPS and Probation ability to meet mandated requirements upon which existing funding is dependent."*

Discussion and Conclusion

For many years, San Joaquin County has used the California Health and Welfare Agency's *Agency – Group Home Agreement* as the contract between the County and a

group home where a child is placed. As of February 1, 2014, the *Group Home Placement Agreement Addendum* (Form CWS-171) was initiated which added numerous requirements for the group home. This new addendum addresses almost all of the recommendations made by the 2012-2013 Grand Jury. The 2013-2014 Grand Jury commends the County's Human Services Agency and the Probation Department for their responses to last year's report regarding Group Homes.

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

Appendix

Group Home Placement Agreement Addendum (Form CWS-171)

Group Home Placement Agreement Addendum

Child placed by HSA/GPS or Probation in Group Home

AGENCY AGREES TO:

1. Review Special Incident Reports and concerns raised by Agency placed youth.
2. Adhere to monthly in-person compliance visits with minors in residential care according to regulatory requirements.

GROUP HOME AGREES TO:

1. Adhere to all Community Care Licensing (CCL) group home regulations including incident report verification detailed in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5, Section 84061. Incident Reports must be a detailed narrative providing the date, time and location of the incident/event.
2. Provide staff Mandated Reporter Training pursuant to Group Home Licensing Manual, Title 22, Division 6, Chapter (5), Section 84065(3)(c). The Group Home/Licensee shall ensure that child care staff have appropriate skills necessary to supervise the children in care. Group Home/Licensee shall have policies and procedures and staff/administrator training regarding reporting requirements as a statutorily mandated child abuse reporter.
3. Maintain staff training records in accordance with Group Home Licensing Manual, Title 22, Division 6, Chapter 5 requirements, Section 84065(5). Documentation of successful completion of training shall be maintained in the personnel record for each child care staff.
4. Report Incidents to CCL and San Joaquin County HSA/GPS and Probation within regulatory time frames contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5, Section 84061. These reports must contain the name(s) of facility personnel who witnessed the youth's behavior.
5. Adhere to CCL group home regulations regarding runaway reporting requirements contained in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5, Section 84061 (7). When the Incident Report is used to report a runaway situation, the report must include when and how was the child's absence first noted, child's last known activities, the circumstances surrounding the child's absence, what action did facility personnel take to discourage the child from leaving, actions taken by the facility personnel to locate the child and if law enforcement was involved.
6. Comply with the requirements for Group Home Administrators to complete facility visits as required in the Group Home Licensing Manual, Title 22, Division 6, Chapter 5, Section 84064(c). The administrator shall be on the premises for the number of hours necessary to manage and administer the facility in compliance with applicable law and regulation.

Name of Child: _____

Birthdate of Child: _____

Date Placed: _____

Signature of Child Placement Worker: _____ Title: _____

Address: _____

Phone Number: _____

Date: _____

Signature of Group Home Representative: _____ Title: _____

Address: _____ Phone: _____

Date: _____

CWS 171 (2/14)

San Joaquin County Grand Jury



Follow-up Report to the 2012 - 2013 San Joaquin County Grand Jury Case No. 0612

County's "Most Wanted" Delinquent Property Taxes

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding the County's delinquent property taxes. Described herein are the methods the 2013-2014 Grand Jury used to determine if the San Joaquin County Treasurer-Tax Collector responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agency submitted its response to the 2012-2013 Grand Jury Final Report on May 30, 2013. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

An investigation by the 2012-2013 San Joaquin County Grand Jury (Grand Jury) discovered that over the past three years there has been an average of \$64,000,000 in delinquent tax revenues left uncollected each year. While this was due in part to the large number of foreclosures in San Joaquin County, there were many additional contributing factors. The Grand Jury was initially concerned about these foreclosed properties because most were not properly maintained and presented problems for neighbors. Also,

regulatory agencies responsible for ensuring compliance with Stockton Municipal Code (SMC) Chapter 15.32, San Joaquin County Code Chapter 9-1905 and other Codes addressing vacant properties were unable to determine the identity of answerable parties for the up-keep of these parcels. The Grand Jury determined that a key element in both of these problems was the ineffective interdepartmental communication between the San Joaquin County Assessor-Recorder-Clerk and the San Joaquin County Treasurer-Tax Collector regarding updating of property ownership records. A second very important consideration was the reality that the Tax Collector held only one tax sale each year.

This ineffective communication was complicated by the fact that there was no legal owner tracking on foreclosed properties whose new owners had not filed a Preliminary Change of Ownership form with the County. Because there have been approximately 3,379 foreclosed properties throughout the County since January 2012, there is an untold number of properties without an accurate ownership record. For example, approximately 6,000 (3%) of the 2012-2013 tax bills were returned because of incorrect information. The use of two different computer programs that did not interact with each other further hindered the exchange of critical information among these departments. Improvements in inter-departmental communications and methods for the collection of taxes by both the Tax Collector and the Assessor-Recorder would provide monies to the County in a more expeditious manner.

Glossary

Assessor	San Joaquin County Assessor-Recorder-Clerk
County	San Joaquin County
Delinquent Taxes	When annual or supplemental taxes are unpaid after June 30th
Tax Collector	San Joaquin County Treasurer-Tax Collector
Tax Sale	Public Auction of Defaulted Tax Properties - An auction or sale designed to return defaulted properties to private ownership

Method of Follow-Up Investigation

- Reviewed the 2012-2013 Grand Jury report and agency responses
- Interviewed personnel from the Treasurer-Tax Collector's office
- Interviewed personnel from the Assessor-Recorder-Clerk's office
- Researched the Treasurer/Tax Collector's website
- Researched on-line delinquent property sales

Findings, Recommendations, Agency Responses and Grand Jury Results

1.0 Public Tax Auction

2012-2013 Finding F 1.1: "By conducting a tax auction of defaulted properties only once each year, the San Joaquin County Treasurer-Tax Collector decreases the number of opportunities for the County to realize a more rapid recovery of revenue from defaulted property taxes."

- **Agency Response:** *"We disagree with the finding."*

2012-2013 Finding F 1.2: "The San Joaquin County Treasurer-Tax Collector uses only face-to-face auctions as a means to conduct property sales thereby limiting the number of participants in tax auctions."

- **Agency Response:** *"We agree with the finding."*

2012-2013 Finding F 1.3: "The San Joaquin County Treasurer-Tax Collector has insufficient staff to manage an ever-increasing volume of delinquent property tax demands."

- **Agency Response:** *"We disagree with the finding."*

2012-2013 Recommendation R 1.1: "Beginning Tax Year 2013-2014, the Tax Collector conduct two tax sales each year."

- **Agency Response:** *"... Revenue and Taxation Code Section 3692 requires a tax auctions to be held at least once every four years. It is preferable to hold sales at least once a year, if the number of parcels justifies an annual auction, because regularly scheduled sales can often motivate redemption. Having multiple tax auctions and reoffering properties that did not sell along with a few new properties will not generate enough revenue for a cost efficient tax auction. "Due to the cost of reoffering properties that did not sell at a face-to-face tax auction the Tax Collector may consider reoffering these properties at a second online auction. The legal requirements and the preliminary research will have already been completed which may make the online auction more cost efficient."*

2012-2013 Recommendation R 1.2: "Beginning Tax Year 2013-2014, the Tax Collector implement an on-line tax sale and use its website to describe properties offered at the sale."

- **Agency Response:** *"The Tax Collector may consider offering properties that do not sell at the tax auction on-line at a later date after the initial tax auction..."*

2012-2013 Recommendation R 1.3: "Prior to December 31, 2013, the Tax Collector request additional funds to augment office staffing to better manage the high rate of tax defaults and facilitate a more rapid collection of tax revenues."

- **Agency Response:** *"... Additional funding for notifications and staffing will not have a material impact on decreasing delinquent property taxes if taxpayers do not have any economic motivation or financial means to pay."*

2.0 Inter-Departmental Communications

2012-2013 Finding F 2.1: "There is no regular, scheduled communication between the Tax Collector's office and the Assessor-Recorder's office regarding foreclosed and/or abandoned properties which contributes to the inaccuracy of affected records."

- **Agency Response:** *"We disagree with the finding."*

2012-2013 Finding F 2.2: "The use of two different computer programs within the tax valuation/collection structure hinders the daily exchange of critical information among departments charged with overseeing public assets."

- **Agency Response:** *"We disagree with the finding."*

2012-2013 Recommendation R 2.1: "By December 31, 2013, the Assessor-Recorder and the Tax Collector develop, revise and/or refine departmental policies and procedures that will facilitate meaningful, timely and accurate communications between and among all parties to ensure the accuracy of all records shared by both offices."

- **Agency Response:** *"The Tax Collector and the Assessor's Office already have policies and procedures that facilitate meaningful, timely, and accurate communication... The Tax Collector's Office will continue to improve on the meaningful, timely, and accurate communication between both offices."*

2012-2013 Recommendation R 2.2: "The Assessor-Recorder and the Tax Collector evaluate the computer systems used in their respective offices to create sufficient computer linkage to support compatible, efficient communication throughout both departments and implement action necessary to achieve mutual effectiveness within both offices by November 30, 2013."

- **Agency Response:** *"Although the two different systems used by the Assessor's Office and the Tax Collector are not seamless there is no obstruction in the exchange of critical information. Each office has access to the other's tax system and can visually confirm the most current information for owner's and address changes. This*

information is also supplied anytime a mass update is required for bulk mailings or annual tax bills."

2012-2013 Recommendation R 2.3: "By November 30, 2013, the Assessor-Recorder create and formalize an interoffice communication system to relay information regarding foreclosed properties to the Tax Collector identifying owner address changes."

- **Agency Response:** *"The Tax Collector's Office has access to the Assessor's Office system and can visually confirm the most current information for owner's and address changes. This information is also supplied anytime a mass update is required for bulk mailings or annual tax bills. The Assessor's Office could produce a weekly report indicating those parcels that have undergone a change in ownership or mailing address in the system."*

3.0 Delays Between Change of Ownership Filing and Property Reassessment

2012-2013 Finding F 3.1: "There is no time frame established for processing changes of ownership to expedite tax collection."

- **Agency Response:** *"We disagree with the finding."*

2012-2013 Finding F 3.2: "The back-log of documents requiring processing is mounting due to staff shortages."

- **Agency Response:** *"We agree with the finding."*

2012-2013 Finding F 3.3: "The computer technology currently used by the Assessor-Recorder's Office is insufficient to keep pace with the demand on processing time, especially of agricultural properties."

- **Agency Response:** *"We agree with the finding."*

2012-2013 Finding F 3.4: "While not totally obsolete, the aging 18 year-old computer hardware system in use at the Assessor-Recorder's Office does not provide for the most efficient use of staff time or effort."

- **Agency Response:** *"We agree with the finding."*

2012-2013 Recommendation R 3.1: "The Assessor-Recorder establish defined timelines for the processing of regular changes of property ownership by December 31, 2013 and conduct training for all staff on methods to achieve established timelines."

- **Agency Response:** *"The variable nature of this task does not lend itself to a meaningful date certain timeline. The Assessor's Office has procedures and policies in place regulating the processing of the various documents that are recorded and*

result in a change in ownership or vesting and therefore require that the ownership information be updated... The Assessor's office will continue to provide training and seek options to facilitate and expedite the process with the staff currently in place."

2012-2013 Recommendation R 3.2: "The Assessor-Recorder explore all options available to reduce the data entry back-log and fulfill current and proposed administrative projects. This plan is to be implemented by December, 2013."

- *Agency Response: "The Assessor-Recorder's Office will continue to explore options to reduce the delay and backlog in processing of change in ownership documents and still meet the mandated requirements of the office with the staffing restriction that are currently in place..."*

2012-2013 Recommendation R 3.3: "The Assessor-Recorder and the Tax Collector work collaboratively to identify and apply new technology that will accelerate the valuation to collection process and improve operation within both departments by December 31, 2013."

- *Agency Response: "The Assessor's Office Information Technology staff is currently being consolidated with the County Information Systems Division and the system is being upgraded to the most up-to-date applications. The Assessor-Recorder and the Tax Collector will continue to work collaboratively to identify and apply new technology improve operation within both departments."*

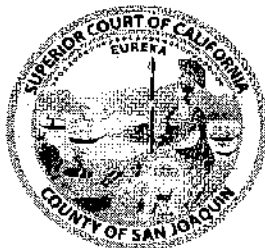
Discussion and Conclusion

The 2013-2014 Grand Jury received and reviewed the responses. The offices of the Assessor-Recorder and the Tax Collector are working with the County's technology department to improve the existing system and to study new technologies. No further action required.

Disclaimer

Grand Jury reports are based on documentary evidence and 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 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 order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

San Joaquin County Grand Jury



Follow-up Report to the 2012 - 2013 San Joaquin County Grand Jury Case No. 0912 Crime-Budget Cuts +AB 109 = Safe Communities

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation regarding Public Safety in San Joaquin County. Described herein are the methods the 2013-2014 Grand Jury used to determine if the Cities, Board of Supervisors and Sheriff responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The nine county agencies submitted their responses to the 2012-2013 Grand Jury Final Report during the period of July 17, 2013 to August 21, 2013. A complete copy of the original report and agencies' responses may be found on the San Joaquin County Grand Jury web site at

http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

Crime is a serious issue in our local communities. Declining budgets have taken their toll on staffing throughout the law and justice system in San Joaquin County. The 2010-2011 Grand Jury issued a report titled Budgetary Impact on Administration of Justice in San Joaquin County, which provided an overview of crime in the County at that time and how budget reductions and staffing shortages negatively impacted public safety. Today, local newspapers continually report violent crimes. People are becoming more and more concerned about their safety. Even though the law and justice system is doing all it

possibly can to protect public safety, countless issues are working against their efforts because of staff shortages and diminished resources.

The 2012-2013 San Joaquin Grand Jury (Grand Jury) studied the County's law and justice system in an effort to develop ideas to help reduce crime throughout the County. While the Grand Jury does not have the authority to change the system, it does have the responsibility to investigate, to determine findings, and to develop recommendations that could have a positive impact on the present situation. This report addresses three areas within the law and justice system: law and justice staffing, county jail capacity and law enforcement leadership.

Staffing has been reduced in all areas of the law and justice system. These reductions have negatively affected the level of all services provided. The Grand Jury is recommending the County and Cities adopt policies to increase law enforcement staffing.

The County Jail is overcrowded. In order to stay within a court-mandated capacity, inmates are regularly released before serving their full sentences. The Grand Jury recommends the County Board of Supervisors approve funding for much needed jail bed capacity, and that the approval include sufficient staffing to supervise the additional capacity.

San Joaquin County has talented people in leadership positions within the various law enforcement entities. However, the limited coordination between the different agencies must be increased. The Grand Jury is recommending that a committee be established to study methods and options to increase efficiencies in county-wide law enforcement.

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the 2012-2013 Grand Jury Final Report and responses from all nine agencies. The Grand Jury also reviewed additional documentation, conducted interviews and reviewed various websites to determine if the agencies responded appropriately to the 2012-2013 Grand Jury recommendations. All members of the Stockton City Council, including the Mayor, were interviewed.

Findings, Recommendations, Agency Responses, and Grand Jury Results

City of Escalon

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- *Agency Response: "The City agrees with the finding."*

2012-2013 Finding F 1.4: “Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing.”

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

2012-2013 Finding F 3.1: “The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources.”

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

2012-2013 Finding F 3.2: “There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time.”

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

2012-2013 Recommendation R 1.1.2: “Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing.”

- **Agency Response:** *“The City agrees with the recommendation. The City will adopt an administrative policy that states it is a priority of the City to increase law enforcement staff so long as financial constraints continue as reflected in the budget.”*

2012-2013 Recommendation R 1.4: “The Sheriff’s Department and each city’s police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies.”

- **Agency Response:** *“The City agrees with the recommendation.”*

2012-2013 Recommendation R 3: “The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee’s purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015.”

- **Agency Response:** *“The City disagrees with the recommendation. The San Joaquin County Sheriff and Police Chief (sic) meet once a month. The monthly meeting*

covers many areas including multi-jurisdictional enforcement that affects service within county and city limits."

Discussion and Conclusion for City of Escalon

The 2013-2014 Grand Jury received and reviewed the responses from the City of Escalon. No further action required.

City of Lathrop

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"Council has not conducted its own investigation of this Finding and therefore neither agrees nor disagrees with the Finding."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"Council has not conducted its own investigation of this Finding and therefore neither agrees nor disagrees with the Finding."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- **Agency Response:** *"Council has not conducted its own investigation of this Finding and therefore neither agrees nor disagrees with the Finding."*

2012-2013 Finding F 3.2: "There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time."

- **Agency Response:** *"Council has not conducted its own investigation of this Finding and therefore neither agrees nor disagrees with the Finding."*

2012-2013 Recommendation R 1.1.2: "Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing."

- **Agency Response:** *"The City of Lathrop has adopted Public Safety as its #1 goal. Specifically on March 4, 2013 Council adopted the following as Goal #1a: Lathrop maintains safe streets, and residents continue to be able to walk out of their houses free of fear."*

2012-2013 Recommendation R 1.4: "The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies."

- **Agency Response:** *"The City of Lathrop contracts with the San Joaquin County Sheriff's Department for police services and cooperates with the Sheriff's Department to review their use of crime prevention technologies and develop a plan to implement new technologies that could help improve the efficiency in their agency..."*

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015."

- **Agency Response:** *"The City of Lathrop contracts with the San Joaquin County Sheriff's Department met for police services and relies on the Sheriff's Department to increase efficiency of law enforcement agencies countywide..."*
-

Discussion and Conclusion for City of Lathrop

The 2013-2014 Grand Jury received and reviewed the responses from the City of Lathrop. No further action required.

City of Lodi

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"The City of Lodi agrees with this finding."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"The City of Lodi agrees with this finding..."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- *Agency Response:* "This finding is too broad for an "agree" or "disagree" response..."

2012-2013 Finding F 3.2: "There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time."

- *Agency Response:* "The City of Lodi agrees with this finding..."

2012-2013 Recommendation R 1.1.2: "Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing."

- *Agency Response:* "Law enforcement staffing is a priority in Lodi, and the City Council intends to bolster police staffing as economic conditions improve. The Lodi City Council, however, does not believe such a resolution is necessary."

2012-2013 Recommendation R 1.4: "The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies."

- *Agency Response:* "The City of Lodi recognizes that prevention measures are an essential component of reducing crime and expects that technological solutions will enhance those measures in the future. Crime prevention is also a priority of the Lodi Police Department, which hopes to bolster its prevention efforts as economic conditions improve. In addition, members of the Lodi Police Department continually survey allied agencies for new ideas, innovative programs, and best practices that may effectively address crime in our community using existing resources."

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015."

- *Agency Response:* "The City of Lodi disagrees with this recommendation. As proposed, ad hoc committee is not necessary because it would essentially be a duplication of effort. Elected officials, City Managers, and law enforcement executives regularly meet with their neighboring counterparts to discuss problems and solutions affecting local and regional government."

Discussion and Conclusion for City of Lodi

The 2013-2014 Grand Jury received and reviewed the responses from the City of Lodi. No further action required.

City of Manteca

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"Police Staffing in the City of Manteca has actually increased over the past few years. In July 2012, the Manteca City Council proactively increased Police staffing by three Officers and one Sergeant, due to an increase in aggravated assaults using firearms. These Officers were assigned to a Gang Suppression (sic) Unit. The Gang Suppression Unit had previously been disbanded in 2009 due to fiscal constraints. The City Council continues to monitor the City's financial status, with a commitment to increasing public safety when fiscally possible."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"The Manteca Police Department uses "Government Outreach," "Raidsonline," "Nixle," "Crossroads Collision Software" and "Coplogic" online reporting. These internet-based programs allow users to gain needed Police and other City information, report certain types of incidents, monitor up-to-date crime statistics for crime prevention and receive current event notifications. These programs are available 24 hours a day, 7 days a week, 365 days a year without increasing the demand for additional staffing. The use of these internet-and cellular-based programs increases staff's available time for higher-priority tasks."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- **Agency Response:** *"Each Police Department within San Joaquin County does maintain specific special units, which require specialized training. While it may appear up front to cause an inefficient use of limited resources, that does not hold true as a whole. In day-to-day operations, these units are actually more effective and efficient. There are "Memoranda of Understanding" in place, which cover joint cooperation within the cities of our County, if needed."*

2012-2013 Finding F 3.2: “There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time.”

- **Agency Response:** *“The reasons agencies operate autonomously is they accommodate the needs and style of each community and their respective City Councils. While it is agreed criminals do not operate within boundaries, there is more to public safety than just the criminal element. There are “Memoranda of Understanding” in place, which cover joint operations within the cities of our County.”*

2012-2013 Recommendation R 1.1.2: “Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing.”

- **Agency Response:** *“It has always been the policy of this and previous Manteca City Councils to explore avenues to increase law enforcement staffing. Each Council member has publicly stated their individual and cumulative desire to increase staffing levels. As recommended by the Grand Jury, however, the Manteca City Council will, prior to September 1, 2013, consider adopting a resolution reaffirming its commitment to increasing law enforcement staffing when fiscally possible.”*

2012-2013 Recommendation R 1.4: “The Sheriff’s Department and each city’s police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies.”

- **Agency Response:** *“Currently, the County Police Chiefs, Sheriff, California Highway Patrol Commander, Chief Probation Officer and Chief Parole Agent meet on a monthly basis to discuss current events within each of their jurisdictions. These discussions do include, at times, crime prevention technology information. No later than September 30, 2013, the Police Department will amend its policy to reflect this recommendation.”*

2012-2013 Recommendation R 3: “The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee’s purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015.”

- **Agency Response:** *“The City of Manteca disagrees with the need to form an ad hoc committee described above. Currently, the County Police Chiefs meet monthly to discuss issues of common interest to law enforcement agencies, including increasing the efficiency of law enforcement services on an ongoing basis. The group is represented by the Police Chiefs from each of the cities in San Joaquin County, the*

San Joaquin County Sheriff, California Highway Patrol, the San Joaquin County District Attorney, Deputy Chief in charge of Parole, and the Chief Probation Officer for San Joaquin County. The establishment of a separate ad hoc committee appears to be duplicative of this group's efforts."

Discussion and Conclusion for City of Manteca

The 2013-2014 Grand Jury received and reviewed the responses from the City of Manteca. No further action required.

City of Ripon

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"The City of Ripon Police Department has seen a reduction in full time Police Officer positions by 15% since 2010, and a further reduction in support staff by 36% during this same timeframe. The changes in pure numbers to this agency do not reflect an increased danger to its citizens, but makes it necessary to operate in a more efficient and effective manner. The Ripon Police Department accomplishes this by constantly evaluating day to day operations and making necessary changes to operations to provide improved services to its citizens. We do not accept that fewer staff automatically translates into diminished services or protection to our citizens..."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"The City of Ripon Police Department has used this approach for several years, and is a strong proponent that the utilization of existing and new technologies increase efficiency and act as a deterrent to criminal behavior..."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- **Agency Response:** *"Each agency within San Joaquin County has specific needs and a specific level of service that is expected of the communities that they serve..."*

2012-2013 Finding F 3.2: "There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time."

- *Agency Response: "There is cooperation between different agencies in the County but each agency still operates autonomously most of the time..."*

2012-2013 Recommendation R 1.1.2: "Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing."

- *Agency Response: "The City Council believes that it is necessary to have appropriate staffing levels to maintain a safe and secure community. Appropriate staffing for public safety is determined by the Council in collaboration with the City Administrator and Chief of Police. The City of Ripon Police Department continues to operate at the highest officer per citizen ration in the County, and the City Council will adopt a policy encouraging increased staffing at the County level."*

2012-2013 Recommendation R 1.4: "The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies."

- *Agency Response: "The City of Ripon Police Department has an extensive list of technologies that are utilized for crime prevention and further enhance our proficiencies. The department continues to evaluate and seek new technologies to further enhance our operations."*

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015."

- *Agency Response: "As proposed, an ad hoc committee may not be necessary because it would essentially be a duplication of effort. Elected officials, City Mangers, and law enforcement executives regularly meet with their neighboring counterparts to discuss problems and solutions affecting local and regional government. Nevertheless, in the event an ad hoc committee is formed as recommended by the Grand Jury, the City Council will appoint two representatives to participate on the committee."*

Discussion and Conclusion for City of Ripon

The 2013-2014 Grand Jury received and reviewed the responses from the City of Ripon. No further action required.

San Joaquin County Board of Supervisors

2012-2013 Finding F 1.1: “The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property.”

- **Agency Response:** “Partially disagree...”

2012-2013 Finding F 1.3: “Some lower-level crimes are not being prosecuted due to staffing reductions within the District Attorney and Public Defender offices allowing criminals to remain on the streets without consequences for their actions.”

- **Agency Response:** “Partially disagree...”

2012-2013 Finding F 1.5: “When the public does not report a crime, law enforcement does not have complete statistics that are necessary for predictive policing.”

- **Agency Response:** “Agree...”

2012-2013 Finding F 2.1: “The savings from eliminating 33 correctional officer positions have been partially negated by overtime paid to officers when there are more than 1,252 inmates and therefore does not provide the intended savings.”

- **Agency Response:** “Partially disagree...”

2012-2013 Finding F 2.2: “County jail inmates who are being released due to jail overcrowding are then able to commit crimes when they otherwise would have been incarcerated, which is increasing the crime problem in the County.”

- **Agency Response:** “Agree...”

2012-2013 Finding F 3.1: “The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources.”

- **Agency Response:** “Agree...”

2012-2013 Finding F 3.2: “There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time.”

- **Agency Response:** “Agree...”

2012-2013 Recommendation R 1.1.1: “The Board of Supervisors, before September 1, 2013, adopt a policy that states it is a priority of the County to increase staffing for law enforcement, including patrol and probation.”

- **Agency Response:** *"The intent of the recommendation has been implemented as demonstrated by Board actions..."*

2012-2013 Recommendation R 1.3: "The County Board of Supervisors, before December 31, 2013, approve a 2013-14 budget or budget amendment that increases staffing for the Office of the District Attorney and the Public Defender Office to adequately prosecute/defend all individuals arrested for violent crime."

- **Agency Response:** *"The recommendation has been implemented. The 2012-13 County budget and recently adopted 2013-14 budget provided for a net increase of 16 full-time positions to the Office of the District Attorney and Public Defender."*

2012-2013 Recommendation R 1.5: "The Public Information Officer for San Joaquin County, by September 1, 2013, coordinate efforts with local law enforcement agencies to have local print, radio, TV and cable media outlets use Public Service Announcements (PSAs) to inform the public to report all crimes."

- **Agency Response:** *"The recommendation will not be implemented. Budget reductions resulted in the elimination of the County Public Information Officer in 2010-11; however, by copy of this response, the recommendation will be relayed to the Sheriff for his consideration in utilizing the services of the Sheriff's Information Officer to coordinate efforts among law enforcement agencies."*

2012-2013 Recommendation R 2.1: "The County Board of Supervisors, before November 1, 2013, approve an increase to the staffing level of correctional officers to fully staff the County Jail including the Honor Farm."

- **Agency Response:** *"The recommendation will not be implemented. Limited resources are available to address all of the County's many responsibilities. Hopefully, the economy will recover sufficiently to eventually allow restoration in the levels of correctional officer staffing, as well as other important County functional areas."*

2012-2013 Recommendation R 2.2: "The San Joaquin County Board of Supervisors, by December 31, 2013, approve an increase of jail beds (whether at the county jail, a new Community Corrections Center or other options) as well as the necessary staffing."

- **Agency Response:** *"It would not be feasible to commit to construction of additional correctional facilities without identifying a funding mechanism to support both the construction costs and the ongoing operational costs..."*

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an *ad hoc* committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law

enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015.”

- **Agency Response:** *“The recommendation will not be implemented. The possible regionalization of law enforcement services should be reviewed first by the Sheriff and Chiefs of Police to determine the operational implications. Should there be consensus from the group that efficiencies could be realized without negatively affecting service levels, further discussion could be referred to the existing Joint City/County Criminal Justice Task Force for evaluation in lieu of creating another committee.”*

Discussion and Conclusion for San Joaquin County

The 2013-2014 Grand Jury received and reviewed the responses from San Joaquin County. No further action required.

San Joaquin County Sheriff-Coroner

2012-2013 Finding F 2.1: “The savings from eliminating 33 correctional officer positions have been partially negated by overtime paid to officers when there are more than 1,252 inmates and therefore does not provide the intended savings.”

- **Agency Response:** *“During the budget years of 2009 through 2011, the Sheriff's Office was required to reduce its annual operating expenses. This was caused by the reduction in revenue for the county. As a result, positions were lost in each area of service delivery within the department...”*

2012-2013 Finding F 2.2: “County jail inmates who are being released due to jail overcrowding are then able to commit crimes when they otherwise would have been incarcerated, which is increasing the crime problem in the County.”

- **Agency Response:** *“The Respondent agrees with the Finding...”*

2012-2013 Finding F 1.4: “Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing.”

- **Agency Response:** *“The Respondent agrees with the Finding...”*

2012-2013 Recommendation R 1.4: “The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies.”

- **Agency Response:** *"The Sheriff's Office is continuously evaluating the Law Enforcement technologies available to increase the efficiency and effectiveness of the Sheriff's Office use of crime prevention technologies..."*

Discussion and Conclusion for the San Joaquin County Sheriff-Coroner

The 2013-2014 Grand Jury received and reviewed the responses from the San Joaquin County Sheriff-Coroner. No further action required.

City of Stockton

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"The respondent agrees with this finding..."*
-

2012-2013 Finding F 1.2: "The Stockton Police Department has maintained an aggressive recruitment program but has not been able to increase its staffing due to the number of officers leaving the department."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"The respondent agrees with this."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- **Agency Response:** *"The respondent agrees with this finding in that duplication of certain functions can cause inefficient use of limited resources; however the special units, task forces, and teams are actually a highly effective and efficient use of limited personnel and funding..."*

2012-2013 Finding F 3.2: "There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time."

- **Agency Response:** *"The respondent agrees with this finding..."*

2012-2013 Recommendation R 1.1.2: "Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing."

- **Agency Response:** *"The Stockton City Council endorsed the Marshall Plan Project Report on April 2, 2013, which specifically recognizes the need for additional police officers as part of its comprehensive crime reduction strategy. The Council also placed a funding measure for the Marshall Plan on the November 5 ballot."*

2012-2013 Recommendation R 1.2: "The Stockton City Council, before December 31, 2013, identify provisions that promote the retention of law enforcement staff and approve a plan for the implementation of the retention provisions identified."

- **Agency Response:** *"The Stockton Police Department has maintained an aggressive recruitment effort resulting in an unprecedented number of new officers being hired. The loss of more tenured officers through resignations and retirements was substantial and acute during 2012, but has since slowed significantly. The City recognizes the need to retain and expand current staff within the police department and will remain cognizant of this issue as it proceeds through its severe fiscal challenges. As noted in the response to F 1.2, the Police Department has been 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."*

2012-2013 Recommendation R 1.4: "The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies."

- **Agency Response:** *"As noted in the response to Finding F 1.4, the Stockton Police Department has an existing, long-standing Technology Steering Committee that fulfills this recommendation."*

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an *ad hoc* committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015."

- **Agency Response:** *"The respondent partially agrees with this recommendation. In principal, the City of Stockton is supportive of efforts to increase the collaboration and efficiency between partner agencies. Because the City is supportive of these efforts, Stockton has been very engaged in recent years with the County and numerous agencies associated with public safety. A key tenet of the Marshall Plan on Crime is for all parties in the criminal justice system to collaborate and address crime from a comprehensive systems approach. The City of Stockton submits that*

that Marshall Plan on Crime is in fact an already completed study and analysis of ways to improve countywide efficiency of law enforcement..."

Discussion and Conclusion for the City of Stockton

The 2013-2014 Grand Jury received and reviewed the responses from the City of Stockton. The City Council's response to Recommendation R 1.2 states, "... the Police Department has been 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." However, no City Council Member could identify any retention strategies that had been discussed.

2013-2014 Finding

F 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.

2013-2014 Recommendation

R 1 The Stockton City Council review and implement retention strategies for police officers before December 31, 2014.

City of Tracy

2012-2013 Finding F 1.1: "The staffing of all law and justice agencies in the County has been reduced increasing the threat to the safety of the citizens and their property."

- **Agency Response:** *"The City of Tracy agrees with the premise of this finding; however Part 1-Crimes within Tracy have remained static during the past several years..."*

2012-2013 Finding F 1.4: "Continued and increased use of current technologies would make law enforcement agencies more efficient and offset some of the decreased staffing."

- **Agency Response:** *"The City of Tracy agrees with this finding..."*

2012-2013 Finding F 3.1: "The duplication of special units, specialized training and police functions (e.g., property room, dispatch, investigation technicians) cause inefficient use of limited resources."

- **Agency Response:** *"The City of Tracy agrees with this finding in general..."*

2012-2013 Finding F 3.2: "There are examples of cooperation between different agencies in the County but each agency still operates autonomously most of the time."

- **Agency Response:** *"The City of Tracy agrees with this finding..."*

2012-2013 Recommendation R 1.1.2: "Each City Council, before September 1, 2013, adopt a policy that states it is a priority of the City to increase law enforcement staffing."

- **Agency Response:** *"The recommendation has been implemented. The City of Tracy has historically maintained Public Safety as a strategic priority within the City Business Plan..."*

2012-2013 Recommendation R 1.4: "The Sheriff's Department and each city's police department review their current use of crime prevention technologies and develop a plan to implement new technologies that could help increase the efficiency of their agencies."

- **Agency Response:** *"The recommendation has been implemented. The City of Tracy is committed to all facets of crime prevention including technological approaches. The Tracy Police Department has invested heavily in crime prevention, thus the Tracy Community enjoys a relatively low crime rate within the region. The City of Tracy staffs within the police department crime prevention and crime analysis personnel. Those specialized positions are supported by analytical and predictive technology. The City is currently exploring the use of remote visual monitoring technology to enhance existing technology."*

2012-2013 Recommendation R 3: "The Board of Supervisors and the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy, before September 1, 2013, each appoint two representatives, one to represent law enforcement and one to represent the governing body or management, to form an ad hoc committee. The committee's purpose is to conduct a study on how to increase countywide efficiency of law enforcement agencies by taking a regional approach to some or all of their services. A preliminary report is to be released before December 31, 2013, of actions already taken to increase efficiency and additional actions that will be taken between January 2014 and June 2015."

- **Agency Response:** *"The recommendation will be implemented. The City of Tracy is willing to participate in discussions relative to forming such a committee. The scope of the ad hoc committee should be fleshed-out further, with timelines more conducive to a comprehensive evaluation."*

Discussion and Conclusion for the City of Tracy

The 2013-2014 Grand Jury received and reviewed the responses from the City of Tracy. No further action required.

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 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.

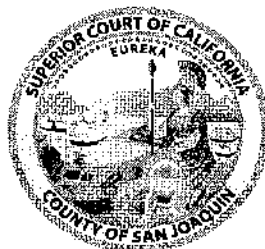
The City of Stockton shall respond to 2013-2014 Finding F1 and to 2013-2014 Recommendation R1 contained in this report.

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.

San Joaquin County Grand Jury



Follow-up Report to the 2012-2013 San Joaquin County Grand Jury Case No. 1012

County Board of Supervisors' Agendas: Consent or Discussion?

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding the San Joaquin County Board of Supervisors. Described herein are the methods the 2013-2014 Grand Jury used to determine if the Board of Supervisors responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agency submitted its response to the 2012-2013 Grand Jury Final Report on August 13, 2013. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

Open and transparent public entities are a requirement for an effective democratic society. The ability of the public to observe and participate in the government process and the function of its institutions is essential if it is to have a clear understanding of how the public is represented and served. After attending public meetings of the San Joaquin County Board of Supervisors (Board), the 2012-2013 San Joaquin County Grand Jury (Grand Jury) was concerned about the placement of items on the agenda, the information

being provided to the public on the County's website and the public's opportunities to comment during the public session of the Board meeting.

The Grand Jury initiated an investigation into the Board's agenda-setting process, as well as how open and participative discussion is facilitated. The results of the investigation led to recommendations that are intended to promote greater participation and discussion through placement of more items on the discussion (rather than consent) agenda, routine updating of the county's website for access to information and enhancing the public comment process itself.

Glossary

Board Resolution	A formal expression of opinion or intention of the San Joaquin County Board of Supervisors
Board Resolution	The Board Resolution R-12-120 passed on April 24, 2012, that updated how the Board of Supervisors conducts its meetings
Brown Act	The Ralph M. Brown Act (Government Code Sections 54950 <i>et seq.</i>) regulating the conduct of public meetings and related public information
Chair	Chairperson of the San Joaquin County Board of Supervisors; annually selected from among its members
Consent Agenda	A portion of an agenda that includes a number of routine administrative items that are dispensed with by a single vote of the Board
County Counsel	The attorney for the County
Hyperlink	A direct electronic link within a website to a specific piece of information
Public Comment Form	A form available before Board meetings for the public to request to speak before the Board on any matter on the agenda or under the Board's jurisdiction

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed last year's report and all responses. The Grand Jury reviewed all 2012, 2013 and current 2014 agendas. A significant number of meetings

were viewed on line as well as attending some board meetings in person. The Grand Jury tested relevant hyperlinks on the website. Management personnel were interviewed.

Findings, Recommendations, Agency Responses and Grand Jury Results

1.0 Consent Agenda

2012-2013 Finding F 1.1: “The large percentage of consent items on the agendas of the public Board meetings does not encourage openness in the conduct of its deliberations.”

- *Agency Response: “Disagree...”*

2012-2013 Recommendation R 1.1: “The Board of Supervisors biannually review its policy, procedures, and practices relative to the structure of the agenda, giving special attention to the placement of a greater number of discussion items on the agenda.”

- *Agency Response: “This recommendation will not be implemented...”*

2.0 Agendas and the County Website

2012-2013 Finding F 2.1: “Improved hyperlinks to staff reports for agenda items were in progress when the Grand Jury began its investigation and are now functioning.”

- *Agency Response: “Agree...”*

2012-2013 Finding F 2.2: “Providing more complete descriptions of agenda items was in progress when the Grand Jury began its investigation and is now in use.”

- *Agency Response: “Agree...”*

2012-2013 Finding F 2.3: “There is no regular or formal review of the agenda website by County staff or the Board. Any review is informal and sporadic.”

- *Agency Response: “Agree...”*

2012-2013 Recommendation R 2.1: “No later than September 30, 2013 the County develop a schedule for regular review of the website for its ongoing improvement to ensure the accessibility of timely information to the public.”

- *Agency Response: “This recommendation has been implemented...”*

3.0 Public Comment Process

2012-2013 Finding F 3.1: “Neither the San Joaquin County Board agenda website nor the posted Board agendas contain information on the public comment process with the exception that a Public Comment Form must be completed to address the Board.”

- *Agency Response: “Agree...”*

2012-2013 Finding F 3.2: “Neither the County website or the agendas contain information related to removing items from the Consent agenda for discussion.”

- *Agency Response: “Agree...”*

2012-2013 Recommendation R 3.1: “No later than September 30, 2013 the County update the Board meeting agendas to include complete information about the public comment process, including how to request that an item be pulled from the consent agenda for public discussion.”

- *Agency Response: “This recommendation will not be implemented...”*

Discussion and Conclusion

The 2013-2014 Grand Jury received and reviewed the responses. The Grand Jury found that relevant hyperlinks now work on the website. A review of the agenda item descriptions showed that they contain information that is more complete. A schedule for regular review of the website has been established.

The 2013-2014 Grand Jury believes that more improvement can be made. The Board of Supervisors is encouraged to again consider expanding the information included on the agenda that explains the process for public comments. An excellent example of such comments can be found on the agenda of the Stanislaus County Board of Supervisors.

No further action required.

Disclaimer

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

San Joaquin County Grand Jury



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 describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding San Joaquin County's Mosquito and Vector Control District. Described herein are the methods the 2013-2014 Grand Jury used to determine if the Mosquito and Vector Control District, San Joaquin County, and the seven cities of the County responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as all agency responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

Nine agencies submitted their responses to the 2012-2013 Grand Jury Final Report during the period of July 17, 2013 to August 20, 2013. A complete copy of the original report and all agency responses may be found on the San Joaquin County Grand Jury website at http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

In 1953 the California State Legislature recognized the public's right to know what actions legislative bodies were voting on before the actual vote took place. The Legislature enacted the Ralph M. Brown Act (Government Code Section 54950 et seq.) which, among other provisions, required legislative bodies to post agendas not less than 72 hours before a meeting with descriptions of all proposed actions in sufficient detail so that the public could understand what was being voted on. This requirement applies to all local governments in the State, including all special districts.

When a legislative body circumvents the requirements of the Brown Act, when actions are taken that are not clearly explained to the public, and when legislative members themselves do not understand what they are voting on, the public's trust of honest governance begins to collapse. By observation, review of documents and sworn testimony the actions of the San Joaquin County Mosquito and Vector Control District (District) and its Board of Trustees (District Board) bring into question its commitment to transparency and compliance with this State law. The 2012-2013 San Joaquin County Grand Jury (Grand Jury) suggests that the San Joaquin County Board of Supervisors (Board of Supervisors) exercise all pertinent authority to impose requirements upon the District to permit the public greater access to the District's meeting agendas and reports. In addition, the appropriate authorizing bodies should consider adopting term limits to ensure that fresh ideas are brought before the District Board. The Grand Jury also has concerns about whether having a separate district with a separate board as the legislative body is the most effective structure for the present and future needs of the County.

Glossary

Brown Act	The Ralph M. Brown Act (Government Code Sections 54950 et seq.) regulating the conduct of public meetings and related public information
District	The San Joaquin Mosquito and Vector Control District

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the responses from all agencies and interviewed staff of the San Joaquin County Mosquito and Vector Control District. In addition, members of the Grand Jury attended multiple meetings of the Mosquito and Vector Control District Board of Trustees.

Findings, Recommendations, Agency Responses and Grand Jury Results

1.0 Lack of Transparency and Compliance with the Brown Act at District Board Meetings

2012-2013 Finding F 1.1: "The Board of Trustees failed to comply with the Government Code Section 54954.2(a) (1) by providing an inadequate description of agenda items proposed for discussion and action at a public meeting. Specifically, it violated the Brown Act at its January 15, 2013 District Board meeting by having an

inadequate description of Item No. 6 Review of Current Trustee Health Insurance Plan, under consideration and the proposed action to be taken by the Board.”

- **Agency Response:** *“The Board wholly disagrees with the finding... For the January 15, 2013 meeting, in agenda item 6 the brief description read, “Review of Current Trustee Health Insurance Plan”. The report argues that this does not give the public notice that the Board would be discussing the Trustees’ participation in the “Trustee Health Insurance Plan”. The Board believes that a plain reading of the description does give notice.”*

2012-2013 Finding F 1.2: “The District Board violated the requirements of California Government Code Section 54953.3 by failing to have clearly indicated on its sign-in sheet that such a requirement was a voluntary action for the public and that no adverse impact would result from failing to sign.”

- **Agency Response:** *“The Board agrees in part with the findings. In January 2013, a visitor appeared. The secretary at the District office thought it would be a good idea to have the visitor sign his name and contact number for the minutes of the meeting. So she handed him pad with a name and address line and asked him to “Please sign this”. It was a technical violation of 54953.3. It was not intended to intimidate the visitor and it did not prevent him from attending.
“Staff was directed to create a sign-up sheet that did state that signing it was voluntary. This sheet was in place in February when members of the Grand Jury visited.”*

2012-2013 Finding F 1.3: “The District Board violated Government Code Section 54957.5 by failing to have the agenda materials provided to Trustees available to the public at the same time as delivered to the Trustees. It also placed restrictions on the public’s access to the materials before and during Trustee meetings.”

- **Agency Response:** *“The Board disagrees with this finding. The incident described occurred when there were not sufficient copies of the Board material on hand to give to visiting members of the public.... Since that incident, staff is directed to have extra copies of the Board material on hand for visitors and to provide that upon request.”*

2012-2013 Finding F 1.4: “At the time this investigation started, the only information on the District’s website was the current meeting agenda. Information about prior meeting agendas, agenda background materials and meeting minutes was not accessible on the website. This information has subsequently been added to the District’s website.”

- **Agency Response:** *“The Board agrees that this is an accurate statement of the facts....”*

2012-2013 Recommendation R 1.1.1: “As a result of its violation of the Government Code 54954.2(a) (1), the Board of Trustee immediately rescind its action on Item No. 6, Review of Current Trustee Health Insurance Plan of the January 15, 2013 Board meeting.”

- **Agency Response:** *"As there was no violation of Government Code section 54954.2(a) (1), there is no basis for this recommendation. However, see response to Recommendation 2.1.1."*

2012-2013 Recommendation R 1.1.2: "The District immediately expand the description of all items placed on the District Board's meeting agenda to fully comply with the requirements and intent of the Brown Act."

- **Agency Response:** *"The District will review the descriptions of items on the Board agenda and expand if needed to provide notice to the public."*

2012-2013 Recommendation R 1.2: "The District revise its District Board meeting sign-in sheet to clearly indicate that adding one's name is a strictly voluntary action."

- **Agency Response:** *"The District has corrected its form sign-in sheet."*

2012-2013 Recommendation R 1.3.1: "The District immediately make available to the public a copy of all agenda materials as soon as it is provided to the Trustees, and that a copy be readily available for the public at the Board's meeting location."

- **Agency Response:** *"The District will have copies of material provided to the Board available to the public. (Material used in closed session will not be available.)"*

2012-2013 Recommendation R 1.4: "No later than November 1, 2013, the District place on its website all agenda materials provided to the Trustees prior to the Board meeting."

- **Agency Response:** *"By the September 2013 Board meeting, the District will post, prior to the meeting, agenda material which is to be provided to the Board and which was created by District staff on the District website..."*

2.0 Lack of Understanding About Action Related to Health Insurance Benefits

2012-2013 Finding F 2.1.1: "A majority of the District's Trustees, under sworn testimony, did not know the details of the health insurance program they were voting to grant themselves."

- **Agency Response:** *"A review of the memories of the Trustees shows that most of the Board members were aware of the benefits that they personally were receiving whether it be medical, dental or vision. It is unclear from the finding the level of detail that was sought, but the trustees were aware of the general level of benefits received."*

2012-2013 Finding F 2.1.2: “A number of Trustees, under sworn testimony, indicated that they thought they were voting for health insurance coverage for the Trustee only, and not for family members.”

- **Agency Response:** *“The Board will have to accept the finding as to what was said to the Grand Jury.”*

2012-2013 Recommendation R 2.1.1: “The District Board immediately rescind its action of January 15, 2013, pertaining to providing health insurance benefits to Trustees. If the topic is reconsidered, a resolution is to be prepared clearly indicating details of the health insurance coverage being provided, for whom coverage is available and the total cost to the District.”

- **Agency Response:** *“...In order to dispel any appearance of confusion over that decision, the Board will reconsider that issue. Any new vote should be made on a roll-call basis after clear statement of the resolution before the Board.”*

3.0 Trustees’ Knowledge of District Finance

2012-2013 Finding F 3.1: “A majority of the Trustees lack a working knowledge of District finances.”

- **Agency Response:** *“The Board disagrees with this Finding.”*

2012-2013 Finding F 3.2: “The District website does not include basic financial documents for public review.”

- **Agency Response:** *“This finding is accurate. The Board notes that there is no requirement that such financial information be placed on the web site. However, see Response to recommendation.”*

2012-2013 Recommendation R 3.1.1: “Beginning September 30, 2013, and quarterly thereafter, the District General Manager include an item on the District Board’s agenda to provide information on the District’s budget, expenditures and reserves.”

- **Agency Response:** *“see response to 3.1.2”*

2012-2013 Recommendation R 3.1.2: “Beginning with the Fiscal Year 2014-2015 Budget, an explanation of the District’s reserve funds and their intended purposes be included as part of the budget document.”

- **Agency Response:** *“The current budget does include a brief discussion of the reserve funds. An explanation of the reserve funds can be found in the notes to the audited financial reports. However, as reflected by the fact that the Grand Jury report itself erroneously reported the reserve amount, it can be difficult to understand how*

reserves figure into a budget. The reserve total is approximately \$7,434,861.00. (The District receives income twice a year, December and April. The funds used to carry it through the remaining months are termed 'reserves'. These reserves are reduced every month as the District uses them for operations.) The District Staff has been working with its outside auditor to adopt a "Fund Balance Policy". This policy would 1) state the purpose of the reserves, 2) provide the definitions of terms used for the various funds (i.e. committed v. assigned), and 3) provide operation guidelines for the use of District funds. The fund balance policy would help to identify the type of reserves so that the Trustees and the public can better understand their uses."

2012-2013 Recommendation R 3.2: "Prior to October 1, 2013, the District include the adopted annual operating budget and the most current audited financial statements on its website, with access from the website's home page."

- **Agency Response:** *"The Board agrees that more financial information should be included on the website. It will be placing information on the District Budget, expenditures and reserves. The monthly Board packets do contain information on the District's finances. The monthly reports show expenses for the month, for the fiscal year to date, in comparison to budget, the dollar amount over or under budget and the percentage of the budget amount for that category. It also shows expenses by vendor summary. It provides a fund balance report for the general fund, benefit assessments, contingent fund, general fund and all funds total. The District will consider whether any additional information is needed in the Board packet. The District will consider whether the adoption of the monthly financial report should be removed from the consent calendar.
"After the 2012/2013 audited financial reports are completed, the reports should be posted to the website."*

Discussion and Conclusion of Responses from the Mosquito and Vector Control District

The 2013-2014 Grand Jury received and reviewed the responses from the San Joaquin Mosquito and Vector Control District (District).

The Grand Jury is pleased that the District has made many improvements in response to the 2012-2013 Grand Jury report. These improvements include:

- Correcting the sign-in sheets for Board of Trustee meetings
- Making copies of material provided to the Board available to the public
- Including agenda materials provided to the Board on the District website prior to the Board meeting
- Expanding the description of items on the Board agendas
- Issuing a financial report to the Board at each month's meeting that includes fund balances

Although the District disagreed with the recommendation to rescind its action on Item No. 6, Review of Current Trustee Health Insurance Plan of the January 15, 2013 Board meeting, the matter was reconsidered. On January 21, 2014, trustee benefits were on the agenda. There was a lengthy discussion of this item and two of the 11 trustees spoke against the continuation of benefits. After there was a 5-2 vote to continue the benefits, the Board was informed that a motion needed six votes to pass. The matter was tabled until the next meeting.

As the District stated in their response, few people typically attend their Board of Trustee meetings. However, March 17, 2014 was different when they had a packed boardroom. Many community members spoke, urging the Trustees to discontinue their health benefits. A Board member made a motion to discontinue the benefits. The vote was five Trustees in favor of discontinuing benefits and five Trustees in favor of continuing benefits. Since the motion to change their practice did not pass, the trustees continue to receive benefits.

In response to 2012-2013 Grand Jury Recommendation R 3.1.2, the District stated that they are working with their outside auditor to adopt a "Fund Balance Policy." However, no such policy has been considered by the District's Board of Trustees.

In response to 2012-2013 Grand Jury Recommendation R 3.2, the District stated, "After the 2012/2013 audited financial reports are completed, the reports should be posted to the website." However, the most current audited financial statements are not on their website.

2013-2014 Findings

F 1 Consideration of a "Fund Balance Policy" has not been an agenda item for the trustees.

F 2 The District did not include the 2012-2013 audited financial reports on their website as they stated they would.

2013-2014 Recommendations

R 1 Prior to October 1, 2014, the District adopt a Fund Balance Policy.

R 2 Prior to October 1, 2014, the District add the Fiscal Year 2012-2013 audited financial reports to its website.

4.0 Appointment of Trustees to the District Board

2012-2013 Finding F 4.1: "Membership on the District Board is seen as a family right and obligation passed through generations, or as a pathway for political advancement."

- **City of Escalon's Response:** *"The City disagrees with the finding."*
- **City of Lathrop's Response:** *"Council has not conducted its own investigation of this finding and therefore neither agrees or disagrees."*
- **City of Lodi's Response:** *"In reviewing the City of Lodi's own process for appointment of a citizen member to serve on the San Joaquin County Mosquito and Vector Control Board, the City disagrees with the finding that the City's appointment to the District Board is viewed as a family right, obligation through generations, or as a pathway for political advancement."*
- **City of Manteca's Response:** *"The City of Manteca respectfully disagrees with the opinion expressed by the Grand Jury. In past years, and consistent with City practice, the City of Manteca solicited applications from the public to serve as Manteca's representative on the District Board. Generally, only the incumbent submitted an application for appointment..."*
- **City of Ripon's Response:** *"After review of the City of Ripon's process for appointment of a member to serve on the San Joaquin County Mosquito and Vector Control Board, the City disagrees with the Grand Jury's categorical finding..."*
- **City of Stockton's Response:** *"The respondent is not in a position to agree or disagree with this finding..."*
- **City of Tracy's Response:** *"The City of Tracy disagrees with this finding to the extent it pertains to the City of Tracy..."*
- **San Joaquin County's Response:** *"Disagree...."*

2012-2013 Finding F 4.2: *"Long terms on the District Board may lead to complacency in reviewing District financial conditions and a clear understanding of issues brought before the Board for consideration."*

- **City of Escalon's Response:** *"The City disagrees with the finding."*
- **City of Lathrop's Response:** *"Council has not conducted its own investigation of this finding and therefore neither agrees or disagrees."*
- **City of Lodi's Response:** *"The City of Lodi does not have an opinion, either objective or subjective, on this finding. The length of service/term limits for members of the District Board is a matter which falls under the purview and jurisdiction of San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board."*
- **City of Manteca's Response:** *"The City of Manteca has no opinion relating to the level of review undertaken by the District Board members. As for the "long terms"*

on the District Board, any length of service or terms for members of the District Board are determined by San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board — not the City of Manteca or any of the other cities."

- ***City of Ripon's Response:*** *"The City of Ripon does not have an opinion on this finding. The length of service/term limits of members of the District Board is a matter which falls under the jurisdiction of San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board."*
- ***City of Stockton's Response:*** *"The respondent partially agrees with this finding..."*
- ***City of Tracy's Response:*** *"The City of Tracy disagrees with this finding as a general statement. The number of terms a Board Member serves does not necessarily reflect on his or her competence or performance of duties."*
- ***San Joaquin County's Response:*** *"Disagree...."*

2012-2013 Recommendation R 4.1: *"No later than November 1, 2013, the County Board of Supervisors and the City Council of each city in the County petition the appropriate agencies and/or the State legislature to establish term limits of two consecutive four-year terms for District Board Trustees."*

- ***City of Escalon's Response:*** *"The City disagrees with the recommendation. City Council has the discretion to appoint its representative for limited number of terms."*
- ***City of Lathrop's Response:*** *"As recommended, the City of Lathrop has submitted a Letter of Petition Establishing San Joaquin County Mosquito and Vector Control District term limits dated August 20, 2013."*
- ***City of Lodi's Response:*** *"By way of this correspondence, a copy of which was sent to the San Joaquin County Board of Supervisors and the San Joaquin County Mosquito and Vector Control Board of Trustees, the City of Lodi petitions the governing boards of those specific agencies, to consider the establishment of term limits for trustees if they so deem appropriate. Future decisions of those agencies pertaining to the length of service/term limits for the District Board will be adhered to by the City of Lodi in its appointment process."*
- ***City of Manteca's Response:*** *"The City of Manteca respectfully disagrees with the Grand Jury's recommendation for the City to petition "the appropriate agencies and/or the State legislature" to establish term limits for the District Board. However, should any of those agencies or the legislature propose and approve such term limits, any appointments by the City of Manteca for membership on the District Board shall be adhered to consistent with those terms and limits."*

- **City of Ripon's Response:** *"By way of this response, a copy of which shall be sent to the San Joaquin County Board of Supervisors and the San Joaquin County Mosquito and Vector Control Board, the City of Ripon hereby petitions the governing boards of those specific agencies to consider the establishment of term limits for trustees if they so deem appropriate, keeping in mind the appropriate balance between the advantages of continuity, and the disadvantages associated with a lack of turnover. Future decisions of those agencies pertaining to the term limits for the District Board will be strictly adhered to by the City of Ripon in its appointment process."*
- **City of Stockton's Response:** *"The respondent is not in a position to agree or disagree with this recommendation. This will require further study after conferring with other cities and the County."*
- **City of Tracy's Response:** *"The recommendation will not be implemented as it is not reasonable as it pertains to the City of Tracy ..."*

5.0 The Best Governance Structure of the District Board to Serve the Public

2012-2013 Finding F 5.1: *"Issues regarding non-transparent functioning and actions of the District Trustees bring into question the need for the District Board as presently appointed by the Cities and the County Board of Supervisors."*

- **Mosquito and Vector Control District's Response:** *"The Board disagrees with this finding..."*
- **City of Escalon's Response:** *"The City disagrees with the finding. City Council is satisfied with the current structure of the Board and its operation."*
- **City of Lathrop's Response:** *"Council has not conducted its own investigation of this finding and therefore neither agrees or disagrees."*
- **City of Lodi's Response:** *"The City of Lodi does not have an opinion, either objective or subjective, on this finding. The existence, organization and operations of the District Board are matters which fall under the purview and jurisdiction San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board."*
- **City of Manteca's Response:** *"The City of Manteca has no opinion relating to the need for the District Board. The existence of the organization and the operations of the District Board are determined by San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board — not the City of Manteca or any of the other cities."*
- **City of Ripon's Response:** *"The City of Ripon does not have an opinion on this finding. The length of service/term limits of members of the District Board is a matter*

which falls under the jurisdiction of San Joaquin County and/or the San Joaquin County Mosquito and Vector Control Board."

- **City of Stockton's Response:** *"The respondent is not in a position to agree or disagree with this finding. There is more than one solution to addressing concerns with transparency and accountability of District Trustees. This will require further study after conferring with other cities and the County. If this discussion is raised within that forum, the Council will consider the analysis and options presented."*
- **City of Tracy's Response:** *"The City of Tracy disagrees with this finding as a general statement. The state Mosquito Abatement and Vector Control District Law governs the establishment and composition of such boards. (Health and Safety Code, § 2000 — 2045.) Under that law, the purpose of such boards is to establish policies for the operations of the district and to provide for the faithful implementation of those policies. (Health and Safety Code, § 2020.) The City believes these are important functions."*
- **San Joaquin County's Response:** *"Disagree. "The organization and composition of the board is prescribed by State statute (Health and Safety Code §2020 et seq.). Transparency is not the product of organization of the board; rather it is a product of the operation of the board. As required in statute, each member is a voter and a resident of that portion of the County or city that is within in district."*

Discussion and Conclusion regarding the Appointment of Trustees And the Governance Structure

The 2013-2014 Grand Jury received and reviewed the responses from all agencies regarding the appointment of Trustees and the governance structure of the San Joaquin Mosquito and Vector Control District. The issue remains of individuals/families serving on the board for many decades. There is a need for all member agencies to review their application and appointment processes to encourage more people to serve on the Mosquito and Vector Control District Board. No further action required on these matters.

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 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.

The San Joaquin County Mosquito and Vector Control District shall respond to all 2013-2014 Findings and Recommendations contained in this report.

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 <mailto:grandjury@sjcourts.org>.

San Joaquin County Grand Jury



Follow-up Report to the 2012-2013 Law And Justice Report

San Joaquin County Jail John J. Zunino Detention Facility

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding Law and Justice. Described herein are the methods the 2013-2014 Grand Jury used to determine if the agencies responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The Sheriff's Office submitted its response to the 2012-2013 Grand Jury Final Report on July 31, 2013. A complete copy of the original agency response may be found on the San Joaquin County Grand Jury web site at http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

In accordance with California Penal Code Section 919(b), one of the mandated requirements of a grand jury is to annually conduct a review of the condition and management of the San Joaquin County Jail facilities. The 2012-2013 Grand Jury commends the Sheriff's Department for operating a clean and well-run facility, despite intermittent overcrowding, gang-related inmate interactions and limited funding.

The County Jail has been significantly impacted by the passage of California Assembly Bill (AB) 109 that became effective on October 1, 2011. This act moves specific classifications of inmates from state prisons to county jails. While the State will continue to incarcerate offenders who commit serious, violent, and/or sexual crimes, the responsibility of supervising, rehabilitating, and managing low-level offenders has now been placed with the County. In addition, parole violators are now sent to county jails and not state prisons. The implementation of this bill has raised concerns within the Grand Jury because it has increased the overcrowding of the jail, which has significantly affected the jail operations and inmate population.

The overcrowding in the County Jail and the implementation of AB 109 is fully addressed in another 2012-2013 Grand Jury report. Therefore, this report does not contain findings or recommendations regarding the jail capacity.

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the responses submitted by the Sheriff's Department.

Findings, Recommendations, Agency Responses and Grand Jury Results

2012-2013 Finding F 1: "Blind spots in the common areas of the housing units can be a safety concern."

- **Agency Response:** *"The Respondent disagrees with the finding."*

2012-2013 Finding F 2: "There is a lack of positive activities for idle inmates at the Honor Farm after completion of their work assignments."

- **Agency Response:** *"The Respondent disagrees with the finding."*

2012-2013 Recommendation R 1: "The San Joaquin County Sheriff's Department, by December 31, 2013, identify the blind spots in the common areas of the housing units and install surveillance cameras, mirrors, or other aid so that correctional officers are able to visually monitor all areas of the housing units."

- **Agency Response:** *"The Sheriff's Office is not prepared to install mirrors within the housing units. Mirrors present security concerns and are not appropriate for Direct Supervision Housing. The design and philosophy of Direct Supervision is to promote constant engagement between officers and inmates. With constant movement and interaction, officers assigned to supervise inmates in a Direct Supervision housing*

unit are trained and expected to utilize keen observations and communication skills to adequately remain abreast of all inmate activity within that housing unit...
"The Sheriff's Office does not disagree that implementing such a system would provide added security measures and will continue to seek suitable systems as funding is available."

Discussion and Conclusion

The 2013-2014 Grand Jury received and reviewed the responses from the San Joaquin County Sheriff-Coroner. No further action required.

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

San Joaquin County Grand Jury



Follow-up Report to the 2012-2013 Law And Justice Report Ride Alongs

Preface

This report describes the 2012-2013 Grand Jury Final Report, including the background of its investigation, regarding the observations of the Grand Jury while on various ride alongs within the County. Described herein are the methods the 2013-2014 Grand Jury used to determine if the County Board of Supervisors, City of Manteca and City of Stockton responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agencies' responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agencies submitted their response to the 2012-2013 Grand Jury Final Report between the dates of July 17 to August 13, 2013. 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.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

The 2012-2013 Grand Jury observed many public safety agencies within San Joaquin County by riding along with staff. Over the course of the year, the Grand Jury participated in more than 30 individual ride alongs, totaling more than 250 hours, with 12 different agencies. These ride alongs were with:

- Escalon Police Department
- Lathrop Police Services
- Lodi Police Department
- Manteca Police Department

- Ripon Police Department
- San Joaquin County Sheriff's Department (including their boat safety patrol)
- San Joaquin Delta College District Police Department
- Stockton Fire Department
- Stockton Police Department
- Stockton Police Department Animal Services
- Stockton Unified School District Police Department
- Tracy Police Department

The employees observed were very professional. The people of the public safety agencies in San Joaquin County are to be commended for the job they are doing.

During these ride alongs, the Grand Jury observed some issues related to resources used by the employees. Much of the equipment (e.g., vehicles, computers, radios, weapons) is aging and needs to be replaced. On a positive note, new rifles were recently purchased by the Sheriff's Department so that each car can now have a shotgun and a rifle. There were also examples of services being reduced. Due to severe reductions in staffing, some agencies do not respond to low priority calls.

Grand Jury members often observed drivers not responding appropriately when approached by vehicles with emergency lights and/or sirens being used. When drivers fail to pull to the right and stop, response time for emergency vehicles is increased. These drivers also threaten their own safety as well as the safety of the emergency responders.

Greater use of technology is becoming standard practice in public safety vehicles. Law enforcement vehicles have computers, which direct them to emergencies, give them the ability to research individuals and vehicles, provide information regarding the calls they respond to and provide other pertinent information. Lodi Police and Fire Departments have a computer system that assists both.

The Grand Jury surveyed the fire departments/districts in the County and found that the fire engines of the Stockton Fire Department and the Manteca Fire Department operate without GPS support. Firefighters in these departments rely on binders of printed material for the emergency response information they need.

A quick internet survey resulted in a number of software solutions to assist firefighters. One such company even advertises that its software program will "replace all those 3-ring binders" (the actual data storage system for Stockton and Manteca Fire Departments).

During these ride alongs, the Grand Jury found two areas of concern. First, it was observed that drivers did not pull over when approached by an emergency vehicle. Also, it was found that the fire vehicles of some departments are without GPS navigation and other current technology.

During the ride alongs with Stockton Fire Department, it was observed that the engines were not equipped with GPS devices or other similar technology. In a survey of other large fire departments/districts, it was learned the large departments in the County had some form of modern technology including GPS except the Manteca and Stockton Fire Departments.

When the fire engines are without this technology, the firefighters must rely on large binders of printed maps and other information when responding to an emergency. Each engine only has data for their coverage area. However, there are times when engines must respond to emergencies outside their assigned area. In these cases, the firefighters are responding without any geographic or logistics information, other than general personal knowledge, necessary to appropriately respond.

Method of Follow-Up Investigation

The 2013-2014 Grand Jury reviewed the 2012-2013 Grand Jury Final Report and the agency responses. The Grand Jury also made site visits to verify the information in the responses.

Findings, Recommendations, Agency Responses and Grand Jury Results

San Joaquin County

2012-2013 Finding F 1: Drivers of private vehicles often do not pull to the right and stop for an emergency vehicle, which not only delays the emergency vehicle but also causes safety issues for all concerned.

- **Agency Response:** *"Agree"*

2012-2013 Recommendation R 1: The Public Information Officer for San Joaquin County, by September 1, 2013, coordinate efforts with local print, radio, TV and cable media outlets in the county and the cities of the county to use Public Service Announcements (PSAs) to educate the public on the proper way drivers should respond when approached by an emergency vehicle.

- **Agency Response:** *"This recommendation will not be implemented..."*

City of Manteca

2012-2013 Finding F 2.1: The absence of GPS devices and computers in the fire vehicles may delay the response times to emergencies.

- **Agency Response:** *"Fire Engines and Command vehicles within the City of Manteca have had laptop computers with GPS capability since 2009..."*

2012-2013 Finding F 2.2: "The absence of GPS devices and computers in fire vehicles put firefighters at risk when responding to an emergency outside their assigned area and without the necessary data."

- **Agency Response:** *"The City of Manteca disagrees with this finding..."*

2012-2013 Recommendation R 2.1: "The Manteca City Council, by December 31, 2013, approve the purchase of current mobile technology (e.g., laptop computers, tablets, GPS devices) along with appropriate software for all fire engines in the city's fire department."

- **Agency Response:** *"The department has budgeted for new software this fiscal year to enhance our current laptop communications with Dispatch. This budget request was approved by the City Council on July 16, 2013. This new software can also be used effectively with the new Mobile Table Technology."*

City of Stockton

2012-2013 Finding F 2.1: The absence of GPS devices and computers in the fire vehicles may delay the response times to emergencies.

- **Agency Response:** *"The respondent agrees with the finding..."*

2012-2013 Finding F 2.2: The absence of GPS devices and computers in fire vehicles put firefighters at risk when responding to an emergency outside their assigned area and without the necessary data.

- **Agency Response:** *"The respondent agrees with the finding..."*

2012-2013 Recommendation R 2.2: The Stockton City Council, by December 31, 2013, approve the purchase of current mobile technology (e.g., laptop computers, tablets, GPS devices) along with appropriate software for all fire engines in the city's fire department.

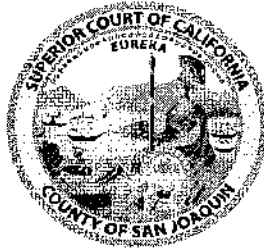
- **Agency Response:** *"The respondent agrees with the recommendation..."*

Discussion and Conclusion

The 2013-2014 Grand Jury received and reviewed the responses from all agencies. No further action required.

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



Follow-up Report to the 2011-2012 San Joaquin County Grand Jury Case No. 0511 North San Joaquin Water Conservation District

Preface

The 2011-2012 Grand Jury conducted an investigation of the North San Joaquin Water Conservation District. The 2012-2013 Grand Jury followed up with the findings and recommendations made by the 2011-2012 Grand Jury and was satisfied with the results except for one.

This report describes the 2012-2013 Grand Jury Final Report, including the background of its follow up investigation, regarding the North San Joaquin Water Conservation District. Described herein are the methods the 2013-2014 Grand Jury used to determine if the North San Joaquin Water Conservation District responded appropriately to the 2012-2013 Grand Jury Report. The 2012-2013 Grand Jury Findings and Recommendations, as well as the agency's responses, are listed in this report and are followed by the 2013-2014 Grand Jury's follow-up results.

The agency submitted two responses to the 2012-2013 Grand Jury Final Report dated July 31 and August 1, 2013. A complete copy of the original report and all agency responses may be found on the San Joaquin County Grand Jury website at http://www.stocktoncourt.org/grandjury/2012-2013_roster%20and%20reports.html.

Summary

The 2011-2012 Grand Jury investigated complaints alleging the non-recusal of voting Board members, violations of the Ralph M. Brown Act, financial mismanagement, lack of leadership, an adversarial attitude, an unwillingness to follow the advice of legal counsel, and violations of District policies, California Water Resource Control Board codes, and California Government Codes. The 2011-2012 Grand Jury's investigation found the North San Joaquin Water Conservation District had incurred considerable

indebtedness. The lack of additional revenue sources and continued inadequate leadership in this area could lead to insolvency and possible absorption by another water district.

The 2012-2013 Grand Jury reviewed the 2011-2012 Grand Jury Final Report, reviewed the files for this investigation, conducted interviews, reviewed additional information, and made a site visit to determine if the District responded appropriately to the recommendations made by the 2011-2012 Grand Jury.

Glossary

Brown Act The Ralph M. Brown Act (Government Code Section 54950, *et seq.*) regulating the conduct of public meetings and related public information

Method of Follow-Up Investigation

The 2013-2014 Grand Jury received and reviewed the agency's responses to the 2012-2013 Grand Jury's findings and recommendations.

Findings, Recommendations, Agency Responses and Grand Jury Results

2012-2013 Finding F 1: "The Grand Jury reviewed copies of recent Board meeting minutes. The Grand Jury also reviewed documentation of the Directors' training attendance. One of the Director's training completion documents was not included and the Grand Jury was informed that this document may have been lost or misplaced. The District's General Counsel stated that he will provide this training documentation to the Grand Jury when it is found."

2012-2013 Finding F 2: "The Grand Jury requested training documentation for two of the Directors but was advised that this training documentation may have been lost or misplaced. The District's General Counsel stated that he will provide this training documentation to the Grand Jury when it is found."

2012-2013 Recommendation R 1: "The Grand Jury recommends the District provide documentation of completion from all Board members for Ralph M. Brown Act training by September 30, 2013."

2012-2013 Recommendation R 2: "The Grand Jury recommends the District provide documentation of completion from all Board members for Ethics training by September 30, 2013."

- *Agency Response to all Findings and Recommendations: "The District agrees with the Grand Jury's findings that no further action is required on the part of the District, except for the 2012-2013 Grand Jury Recommendation R2 that the District provide documentation of completion from all Board members for Ethics training by September 30, 2013, and the District agrees with that recommendation. As reported in my letter dated June 7, 2013, to Ms. Trisa Martinez, all Board members, except Director Beck, have completed and provided documentation of the required Ethics training and that Director Beck had completed a portion of his training. We are awaiting Director Beck's documentation that he has completed the full two hours of Ethics training and will submit it to the Grand Jury when received."*

Discussion and Conclusion

The 2013-2014 Grand Jury received and reviewed the responses from the North San Joaquin Water Conservation District. It was verified that Director Beck did complete the required Ethics training. No further action required.

However, the training that is at the center of this report is required by California Assembly Bill 1234. The State of California requires that all members of governing boards for all public agencies receive training every two years on ethics and the Brown Act. It has taken two years of grand jury investigations to get the District to document the required training. At this point, some of the agencies directors are due to renew their training. Since the District's directors took so long to complete the required training, it appears that future grand juries and/or members of the public would be wise to monitor the North San Joaquin Water Conservation District for future compliance with State requirements.

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

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Tours and Presentations

2013 - 2014 Grand Jury Tours and Presentations

Tours

9/11/2013	Port of Stockton
9/25/2013	San Joaquin County Jail
10/9/2013	O.H. Close & N.A. Chaderjian, NCYC
10/23/2013	Deuel Vocational Institute & Dairy
10/25/2013	Registrar of Voters – Voter Test
11/6/2013	Lifecom/AMR - Salida
11/20/2013	Petersen Hall (Juvenile Probation)
12/19/2013	Stockton Police Department Communications Center
12/19/2013	Sheriff's Communication Center
1/10/2014	Stockton Unified Police Department
3/27/2014	San Joaquin County Court Holding Cell Inspections
5/8/2014	San Joaquin County Honor Farm
5/22/2014	Registrar of Voters – Voter Test
5/28/2014	Port of Stockton – Land Tour

Presentations

8/21/2013	Charter Schools in San Joaquin County
8/21/2013	LAFCo – Local Agency Formation Commission
9/18/2013	Department of Aging – Adult Services
10/16/2013	Human Services Agency – Children's Services Foster Care
10/16/2013	County EMS Presentation
10/30/2013	Community Corrections Partnership (AB109)
10/30/2013	Council of Governments
11/6/2013	Stockton Police Department – Chief Eric Jones
12/11/2013	Lathrop Police Department – Chief Hohn

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Grand Jury Process and Organization

What is a Grand Juror?

- ❖ Someone who wants to make a difference
- ❖ Someone who believes in honesty
- ❖ Someone who asks “Why?”
- ❖ Someone who knows the meaning of confidentiality
- ❖ Someone whose reports will live longer than they do
- ❖ Someone who can work with people with whom they don’t agree
- ❖ Someone who can intellectually defend his or her position
- ❖ Someone who learns there really are two sides to every story
- ❖ Someone who realizes they will never do all they want to do in a year
- ❖ Someone who knows they can accomplish more in a group than they can alone
- ❖ Someone who feels good about the work they produce
- ❖ Someone who is fed up with people who only complain about local government
- ❖ Someone who asks questions no one wants to answer
- ❖ Someone who realizes that no grand juror is more important than the grand jury
- ❖ Someone who realizes that no grand jury is more important than the grand jury system
- ❖ Someone who will make meaningful friends with a common unique bond for life
- ❖ Someone who can retain his/her sense of humor

***“Serving the people of San Joaquin County
by preserving government integrity”***

Qualifications

A grand juror must meet all of the following qualifications:

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

A grand juror cannot:

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

Other desirable qualities:

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

Grand Jury Oath

"I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into and true presentment make of all public offenses against the people of this State, committed or triable within this County, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury or anything which I or any other grand juror may say, or the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given to me by the Court."

Application

Application forms may be received by writing to:

Trisa Martinez
San Joaquin County Superior Court
P. O. Box 201022
Stockton, California 95201

Application forms can be downloaded from: www.stocktoncourt.org/grandjury

Please submit a written application to Trisa Martinez. The deadline for submitting applications is April 1 for the following July 1 through June 30 term.

Commitment

Nominees selected for grand jury service must commit to serving at least one day each week for the period July 1 through June 30. Also, considerable time each week will be spent for investigative and report-writing assignments.

Selection

Applications will be reviewed and forwarded to the Presiding Judge for consideration and an interview will be scheduled with the judge if you are considered.

Grand Jury members are selected from the judicial district of the county in proportion to the number of inhabitants in each district. In June, drawings are conducted under the supervision of the Presiding Judge of the Superior Court in the presence of the nominees. The names of 19 people who will compose the grand jury are drawn at random from a pool of prospective grand jurors. Another ten names are drawn and ranked to form the alternate list. If a juror is unable to serve, a replacement is selected from the alternate list according to rank.

Structure and Function of the Civil Grand Jury

California Constitution, Article I, Section 23, provides that "One or more grand juries shall be drawn and summoned at least once a year in each county." The law governing Grand Jury formation, authority, powers and proceedings, is found in Part 2, Title 4, of the California Penal Code Sections 888-939.91.

The presiding judge of the Superior Court of San Joaquin County empanels 19 citizens every year to conduct civil investigations of county and city agencies, school districts and special districts, a body of people who are independent of any political or special interest group.

The judge appoints a foreperson to preside over the Grand Jury. The foreperson selects the vice-foreperson and secretary with approval of the Grand Jury and standing committees and/or ad hoc committees are formed. Each juror may serve on several committees and this is where the investigative work is done throughout the year. A general meeting is held weekly to coordinate activity and conduct business.

The Grand Jury serves in an independent oversight and investigative role for the County of San Joaquin. It serves to investigate allegations of misconduct of public officials and to determine whether to present formal accusations for nonfeasance, misfeasance or malfeasance. It will objectively investigate, audit, or examine all aspects of County and city agencies, school districts, special districts and its cities, to insure that these bodies are being effectively governed and that public monies are being judiciously handled.

The Grand Jury may subpoena persons and documents to obtain information on subjects under investigation. The Grand Jury acts in the public's interest by investigating and reporting on the operation, management and fiscal affairs of local government in the County. It may review and evaluate procedures, methods and systems used by County and city governments to determine whether more efficient and economical programs may be used. The Grand Jury is also mandated to inspect prisons, jails and other detention facilities in the county. The Grand Jury reviews complaints submitted by citizens alleging misconduct by officials or other concerns of government inefficiencies. Complaints are acknowledged and investigated for their validity. Jurors are sworn to strict confidentiality pertaining to complaints, witnesses or content of investigative matters. They may not disclose any information they receive within the confines of the jury or the identity of anyone appearing before them. The Grand Jury is an independent entity and it serves a democracy in which individuals can be involved for civil service on behalf of their community.

Complaint Procedure

The complaint form should be submitted by citizens after all unsuccessful attempts to correct an issue have been explored. The Grand Jury may consider complaints of willful or corrupt misconduct against public officials and policies, County and city employees, including the abolition or creation of offices and the equipment for performing duties of County government. Any citizen may submit a written complaint to the Grand Jury and all communications are confidential. A citizen may ask the Grand Jury to conduct an investigation into misconduct or inefficiencies by County governmental agencies.

Instructions for preparing the Complaint Form:

- ❖ Include your name, address and phone number
- ❖ Name the agency and/or person(s) you are complaining against
- ❖ Explain the nature of your complaint and provide detailed information
- ❖ List any other action requested or taken in an attempt to resolve the issue
- ❖ Provide contact information of witnesses who can substantiate your complaint

To obtain a complaint form visit the Grand Jury website at:

www.stocktoncourt.org/grandjury

SAN JOAQUIN COUNTY CIVIL GRAND JURY
222 E. Weber Ave., Room 605 Stockton, CA 95202
Phone: (209) 468-3855

COMPLAINT FORM

All communications to the Grand Jury are confidential.

The Grand Jury is the avenue for county residents to bring attention to what they believe are injustices not resolved by public agencies, after other reasonable efforts have failed.

What is your name, address and phone number?

What agency and/or person are you complaining against? *(Name of agency and all individuals, including their addresses and phone numbers)*

Please explain the nature of your complaint providing as many details as you can, including dates, times, and places where the events took place. *(Attach extra sheets if necessary)*

Action taken. Please list other persons and/or agencies you have contacted in an attempt to resolve this complaint and any actions you have taken yourself.

Witnesses. Please provide names and telephone numbers of anyone else who can substantiate your complaint.

The information in this form is true, correct and complete to the best of my knowledge.

SIGNATURE: _____

DATE: _____

Responding to Findings and Recommendations

Provided here are extracts of California Penal Code Section 933 that establish the requirements for responding to the Grand Jury reports.

The timetable for responses is found in Section 933(c):

No later than 90 days after the Grand Jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the Grand Jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the Board of Supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the finding and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who empanelled the Grand Jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable Grand Jury final report by, and in the control of the currently empanelled Grand Jury, where it shall be maintained for a minimum of five years.

Section 933.05 gives explicit instructions for how public agencies (including County departments and agencies, and all public agencies geographically situated within County borders, e.g., cities and their police departments) must respond to a grand jury report:

(a) "...as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) "...as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the finding or recommendations affecting his or her agency or department.”

Mail a hard copy of the response to:

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

Also, please email the response to Trisa Martinez, Staff Secretary to the Grand Jury at:
grandjury@sjcourts.org

Contact Information

The San Joaquin County Grand Jury can be reached:

Via the Internet at:

www.stocktoncourt.org/grandjury

Via Email at:

grandjury@sjcourts.org

By visiting or writing:

San Joaquin County Civil Grand Jury
222 E. Weber Avenue, Room 605
Stockton, California 95202