

# **SAN JOAQUIN COUNTY GRAND JURY**



## **FINAL REPORT 2018-2019**



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# *Introduction*





**Superior Court of California, County of San Joaquin**

180 E. Weber Avenue, Ste. 1306J

Stockton, CA 95202

Telephone: (209) 992-5695

June 11, 2019

The Superior Court of California, County of San Joaquin thanks and commends the 2018-2019 Grand Jurors for their conscientious efforts on behalf of all San Joaquin County citizens. The Grand Jurors undertook and completed their duties with great industry, intelligence and care.

The Grand Jury is composed of qualified individuals who applied for membership, those drawn from the community and individuals nominated by community leaders. The chosen citizens serve as an independent body under the court's authority. The 2018-2019 San Joaquin County Grand Jury now takes its place in a long history of citizen involvement in civic life which was born in the English Common Law of 1166, adopted during the American Colonial period and codified in California in the 1880's. The 2018-2019 Grand Jurors' thoughtful and constructive recommendations will help ensure the highest quality civic life to which all citizens are entitled.

As the Grand Jury Advisor and Supervisor, it has been my privilege to review the work of the 2018-2019 Grand Jury. The Grand Jurors also received well considered advice from their highly experienced Advisors, County Counsel Mr. Mark Myles, the Assistant District Attorney Mr. Scott Fichtner and the invaluable assistance of the Superior Court administrator, Ms. Trisa Martinez. Among their accomplishments, the Grand Jurors undertook consideration of the work of governmental institutions responsible for the daily life of municipalities and their citizens. The Grand Jurors also made careful efforts to follow through on the work of their predecessors thereby assuring the community that the San Joaquin County Grand Jury as an institution sustains its role in the County's civic life. The Grand Jury Final Report educates the public through well written accounts of the work, findings and recommendations of these devoted citizens. The Grand Jurors' recommendations are deserving of careful consideration by government officials and the citizenry.

The efforts, commitment, collective wisdom and experience of these dedicated individuals will continue to better the civic life of all San Joaquin County residents. To each member of the 2018-2019 San Joaquin County Grand Jury, for your many accomplishments, the Superior Court extends its congratulations and gratitude.

Hon. George J. Abdallah, Jr.  
Supervising Judge of the San Joaquin County Grand Juries





# *Grand Jury*

## **COUNTY OF SAN JOAQUIN**

180. E. Weber Avenue, Suite 1114

Stockton, CA 95202

Telephone: (209) 468-3855

June 6, 2019

Honorable Linda L. Lofthus  
Presiding Judge  
Superior Court of California  
County of San Joaquin  
180 E. Weber Avenue, Suite 13061  
Stockton, CA 95202

Honorable George J. Abdallah, Jr.  
Judge of the Superior Court and  
Judge Advisor to the Grand Juries  
County of San Joaquin  
180 E. Weber Avenue, Suite 13061  
Stockton, CA 95202

Dear Judge Lofthus and Judge Abdallah,

On behalf of the 2018-2019 San Joaquin County Civil Grand Jury, I am honored to submit to you our Final Report.

This represents the dedicated work of 17 jurors from diverse backgrounds who came together to produce a report that we hope will prove beneficial to the citizens of San Joaquin County. We also hope that our fellow citizens will take the time to read the reports, consider our findings and recommendations, and motivate our community leaders to enact the changes we propose.

This report represents thousands of hours of meetings, interviews, research, site visits, writing and editing. The Grand Jury opened eight investigations, five of which resulted in published reports. In addition to conducting mandated tours of detention facilities within the County, Grand Jurors were able to observe first-hand the work of our dedicated public servants throughout the County by riding along with law enforcement, code enforcement and fire personnel. This Grand Jury was also privileged to have had the opportunity to serve as observers for the most recent General Election.

I want to recognize and thank those individuals who appeared before the Grand Jury and cooperated with our investigations. Being called before the Grand Jury can be a mysterious and stressful situation. I also want to acknowledge that, by in large, the public officials who appeared before the Grand Jury were helpful to our investigations and dedicated to doing their best for the citizens of San Joaquin County.

On behalf of the Grand Jury, I would like to thank Judge Abdallah, Assistant District Attorney Scott Fichtner, and County Counsel Mark Myles for their expert advice and guidance throughout the year. We would like to give a special thank you to Trisa Martinez, Judicial Secretary/Grand Jury Staff Secretary for her hard work, dedication, and commitment to the Grand Jury. I would like to personally thank Trisa for her sage advice to me in my role of Foreperson.

Finally, I would like to thank the 16 colleagues that I had the honor and privilege to spend much of the past year with. Your varied perspectives and willingness to do the hard work resulted in five high-quality and impactful reports. Throughout the year I was constantly touched by your passion and commitment to improving our local and county government. I will miss our Wednesdays together.

Thank you for the opportunity to serve as Foreperson for the 2018-2019 San Joaquin County Grand Jury.

Sincerely,

A handwritten signature in cursive script that reads "Neal Fornaciari".

Neal Fornaciari, Foreperson  
2018-2019 San Joaquin County Grand Jury

## 2018-2019 San Joaquin County Civil Grand Jurors



**Back row** (left to right): Fran Block, Donald Jones, Denise Sullivan, Roger Easterly, Sergeant-at-Arms Thomas Sharp, Steve Barnett, MaryAnn Maggio, Karen Graff, Lorre Islas, Vice Foreperson Gary Cooper

**Front row** (left to right): Yvon Varo, Frances (Dee) Matteucci, Foreperson Neal Fornaciari, Gregory Jones, Terri Rocha, Secretary Sally Wooden

**Not pictured:** John Kimbrough

**Section II**

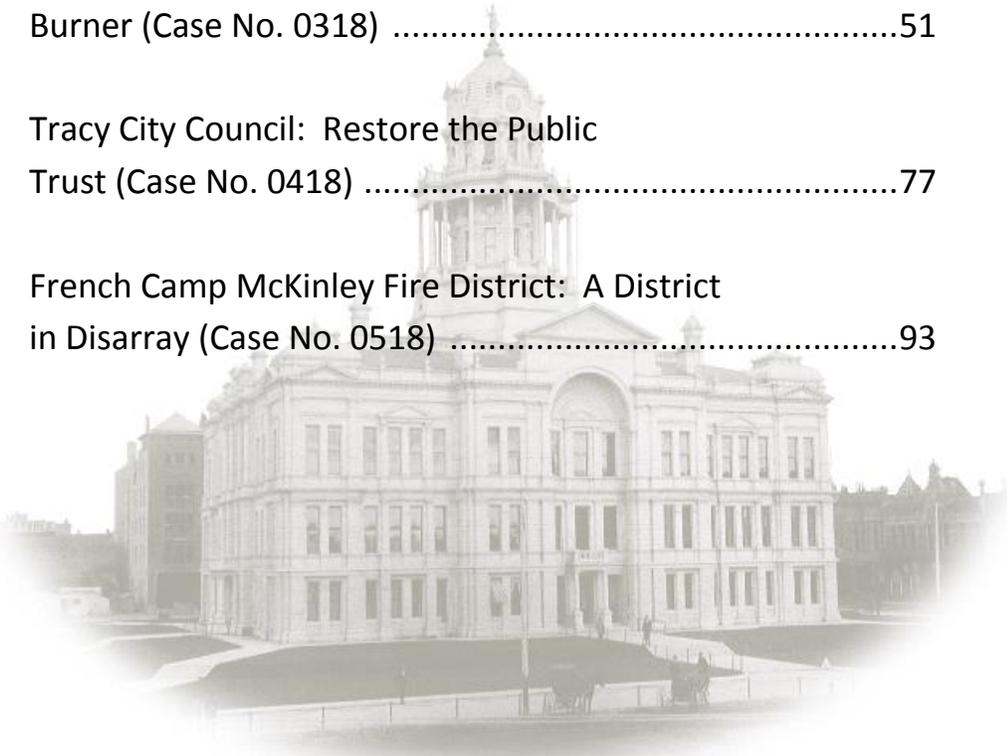
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*Investigations*



# San Joaquin County Grand Jury



## San Joaquin County Parks and Recreation:

### Budget Challenges and Matters of Trust

2018 - 2019 Case #0118



## Summary

The San Joaquin County park system is a treasure for the enjoyment of all the citizens of the County. The 21 parks in the system provide a wide range of activities including camping, boating, golfing, wilderness hiking, and a zoo. In order to help ensure the future viability of the park system, the County Board of Supervisors set up a series of trust funds. These trust funds were intended to manage monies earmarked for specific parks or improvements in the park system.

For the past decade, the Parks and Recreation Division budget has been under a great deal of pressure. During that time, the Parks and Recreation budget has been cut by 16% while the overall County budget has grown by 39%. In order to keep the park system functioning, the Parks and Recreation Division used monies from these trust funds to balance their budget. The result has been a nearly complete depletion of the Parks Trust Funds. At the end of the 2012-2013 fiscal year, the balance of all the trust funds was nearly \$5,500,000. By the end of the 2018-2019 fiscal year, there will be less than \$50,000 remaining. During the past decade, just over \$11,000,000 was taken from these trust funds to supplement the Parks and Recreation Division budget.

The Parks Trust Funds have been depleted to the point where they can no longer provide the level of support needed to maintain the park system. The Board of Supervisors and the Parks and Recreation Division need to develop and implement a plan for managing the park system within a structurally balanced and sustainable budget. Only then can these trust funds be replenished and begin again to provide support for the growth and improvement of the County park system.

## Glossary

- **Angrave Property:** The estate of Joseph M. Angrave donated 205 acres of land to the Parks and Recreation Division in 1986. This land is leased and the grazing rights generate income for the Parks and Recreation Division.
- **Fair Market Value:** In the context of this report, the fair market value is the total value of all cash, securities, and land based on their current value. For securities, it is the current sales price of those securities. For land, it is the most recent appraised value of the land.
- **Net County Cost:** The cost to operate the Parks and Recreation Division beyond the revenue generated by the Division. Monies to cover Net County Cost come from the General Fund.
- **Total Return:** When measuring performance, total return is the actual rate of return of an investment or a pool of investments over a given evaluation period. Total return includes interest, capital gains, dividends, and distributions.

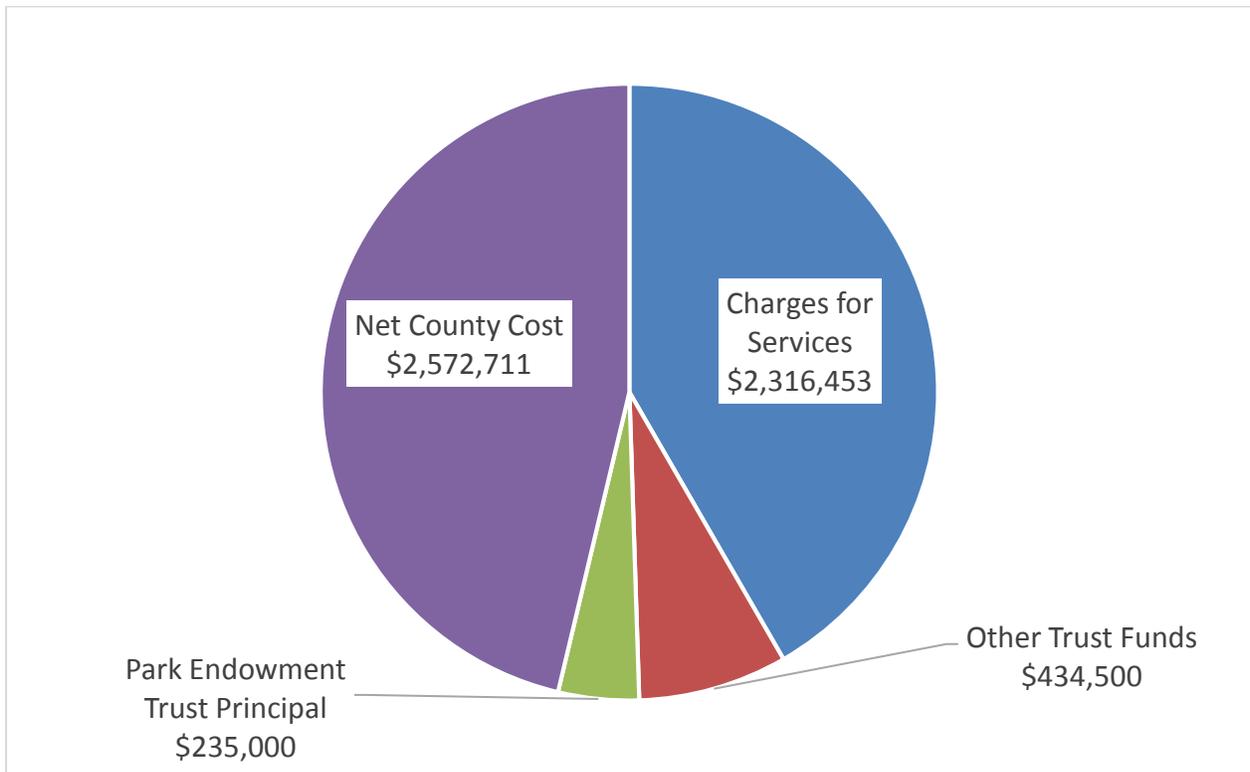
## Background

### County Park System

San Joaquin County operates a system of 21 local and regional parks. The park system provides opportunities for boating, fishing, camping, and many other activities. Available rentals include 23 picnic shelters, 68 campsites, 21 boat slips, and 17 sports fields. Oak Grove Regional Park is 180 acres of old-growth Valley Oak trees which populated the valley before Native Americans and settlers arrived. It is historically and botanically significant. The park system's most popular attraction is Micke Grove Park which features the Micke Grove Zoo, a Japanese Garden, FunTown at Micke Grove, an 18-hole golf course, and the San Joaquin County Historical Museum. In 2017-2018, Micke Grove Park hosted over 345,000 visitors, while the overall park system hosted over 850,000 visitors.

### Parks and Recreation Budget

The requested budget for the San Joaquin County Parks and Recreation Division for 2018-2019 was \$5,323,664. Slightly more than half the overall budget was funded by charges for services and transfers from County managed trust funds. The budget included a request that \$669,500 be transferred from these trust funds, which included approximately \$235,000 in principal from the Park Endowment Trust. Figure 1 below shows this budget distribution.



**Figure 1. 2018-2019 Parks and Recreation Budget**

## County Managed Trusts

The County currently uses ten different trusts to support the Parks and Recreation Division. Each trust was set up to manage a different revenue stream and has a specific intended use. The revenues deposited into some of these trusts are fees which are used for ongoing operations and maintenance. A few of these trusts were intended to be treated as interest-bearing accounts and only the interest generated by the principal in these trusts was to be used to benefit the parks system. For this investigation, the Grand Jury focused on the Park Endowment Trust, the Micke Grove Trust, and the Park Donation Trust. These are the largest of the trusts and/or were established with specific restrictions for the use of the monies in those trusts. Table 1 below is a summary of the ten County managed trust funds currently in use.

**Table 1. Brief Description of the Ten County Managed Trust Funds**

<b>Trust Name</b>	<b>Date Established</b>	<b>Intent</b>
<b>Park Donation Trust</b>	Prior to 1988*	Accepts project specific donations
<b>Park Endowment Trust</b>	May 26, 1987	Accepts non-specific donations and income to fund projects that will benefit the parks system
<b>Micke Grove Trust</b>	January 14, 1986	An interest-bearing fund to account for the annual income from the William G. Micke Estate Trust
<b>Parks and Recreation Activities Trust</b>	Prior to 1988*	Receive funding from park-related activities
<b>Harmony Grove Endowment Trust</b>	February 25, 1992	Fund projects that will benefit the church and grounds
<b>Parks Deposits Trust</b>	March 11, 1980	Accept rental agreement deposits
<b>Subdivision Parks Trust</b>	February 23, 1982	Accept developer impact fees
<b>Micke Grove Construction Trust</b>	Prior to 1988*	Fund construction projects in Micke Grove
<b>Parks Special Projects Trust Fund</b>	December 4, 2018	Fund and provide ongoing operational support for special projects
<b>Parks Development Special Trust Fund</b>	September 25, 2018	Provide funding for the future development of a South County park

\*The Grand Jury does not have the exact date these funds were established

## **Non-County Managed Trust**

One of the most important sources of discretionary funding for the Parks and Recreation Division is the William G. Micke Estate Trust, which is managed by Wells Fargo Bank. During his life, William G. Micke donated 258 acres to San Joaquin County that became known as Micke Grove. Mr. Micke then constructed within Micke Grove: the Julia Harrison Micke Memorial Building, the William and Julia Micke Youth Center, and the Micke Grove Zoo. The remainder of William G. Micke's estate, including an orchard and vineyard, was transferred into the William G. Micke Estate Trust after his death in 1961. His will stipulated that the "net income" generated by the trust be disbursed to San Joaquin County to be used for "maintenance, repair, replacement and operation" of Micke Grove. However, if the net income was not needed for maintenance, repair, replacement and operation, it could be held in reserve for later use or added to the principal of the Trust.

## **Reason for Investigation**

This investigation was initiated by the 2018-2019 San Joaquin Civil Grand Jury in response to a citizen complaint. The complaint alleged misuse of County Park trust funds because the principal in some of these trust accounts was being used for operation and maintenance of the parks inconsistent with the intended use of the monies in these trusts. The Grand Jury expanded this scope to include the overall Parks and Recreation budget.



## Method of Investigation

### Materials Reviewed

#### County Documents

- County budgets from 2000 to present
- Board of Supervisors resolutions establishing the various Parks Trust Funds
- Draft County audit for the period January 1, 1998 through December 31, 2000
- Fund Reports for the Parks Trust Funds
- Consultant reports
- Staff reports
- Applicable Government codes
- Applicable Internal Revenue Service codes
- Board of Supervisors agendas and meeting videos

#### Documents related to the William G. Micke Estate Trust

- Form 990 tax returns
- Biennial filings by the Trustee (Wells Fargo) to the San Joaquin County Superior Court
- San Joaquin County Superior Court case In re the Estate of William G. Micke
- Last Will and Testament of William G. Micke

### Interviews Conducted

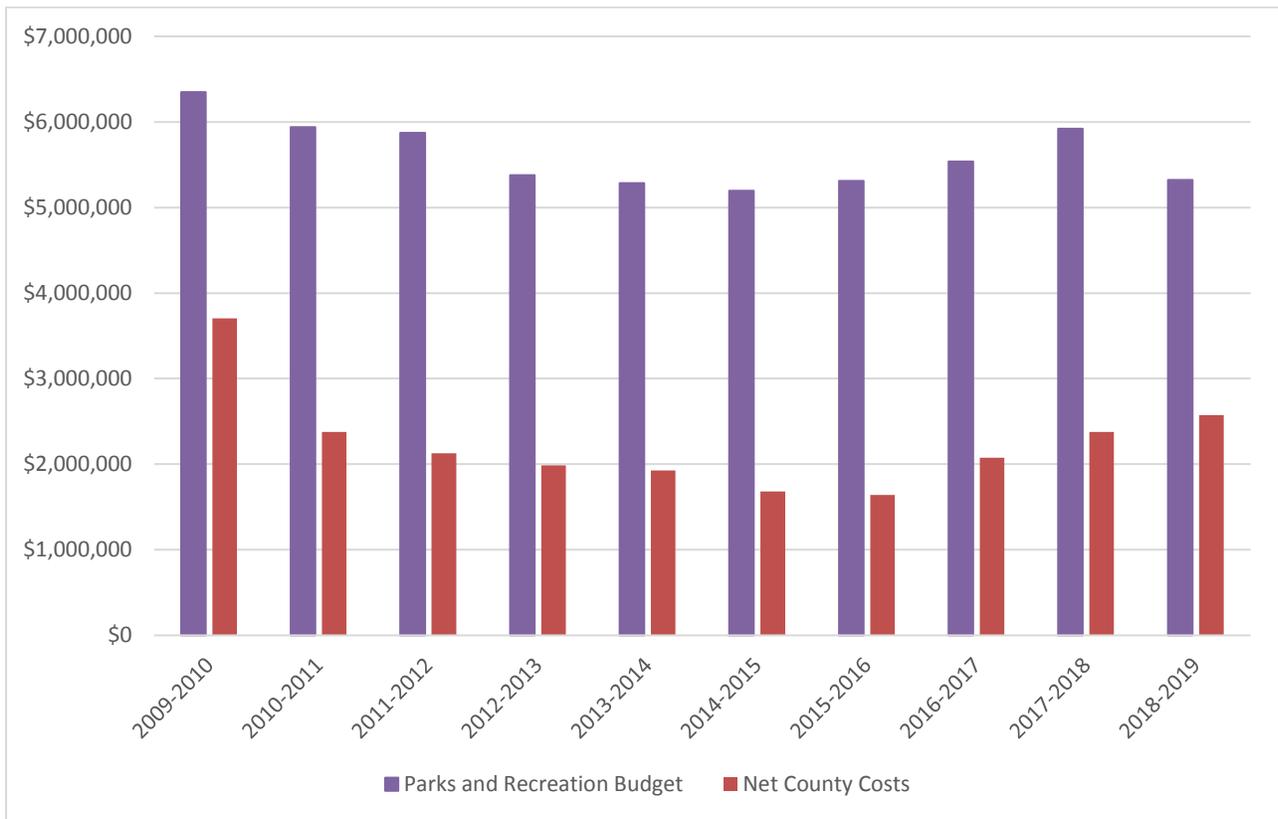
- Complainant
- County Administrative and Management personnel
- Current and former Parks and Recreation Division employees
- Legal experts on trusts and foundations
- Park Commissioners
- Member of the Board of Supervisors
- County Auditor/Controller

## Discussions, Findings, and Recommendations

### 1.0 Parks and Recreation Budget and Trust Usage

#### Parks and Recreation Budget

Figure 2 below shows the annual Parks and Recreation budget and the Net County Cost between 2009 and 2019.

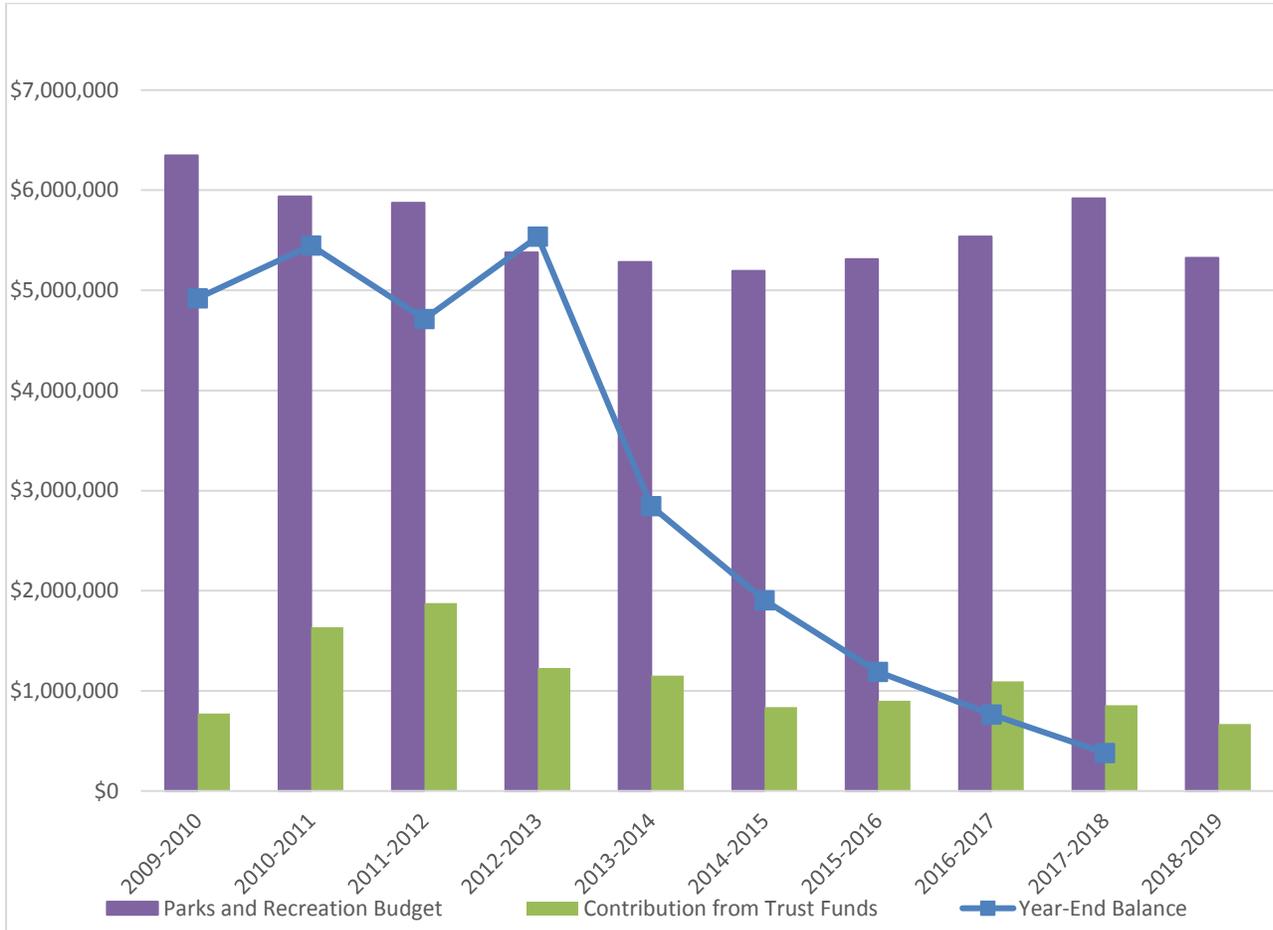


**Figure 2. Parks and Recreation Budget and Net County Cost**

Over the past decade, the Parks and Recreation budget has been cut by 16% while the County budget has grown by 39%. Had the Parks and Recreation budget kept up with inflation, its 2018-2019 budget would have increased by over \$2,000,000. In 2009-2010, Net County Costs covered 58% of the Parks and Recreation budget. By 2018-2019, it covered only 48%.

## Trust Fund Usage

Figure 3 below shows the Parks and Recreation budget, annual trust fund usage, and the year-end balance for the eight trust funds that were in use between 2009 and 2018.



**Figure 3. Parks and Recreation Budget, Trust Fund Usage and Year-End Balance**

Beginning in 2009-2010, the Parks and Recreation Division began using monies from the County managed trusts to support ongoing operations in lieu of layoffs. The 2010-2011 Proposed Budget included a warning that “the proposed transfers would deplete most of the trust fund balances.” That proposed budget also warned that “The continued reliance on the trust funds in 2011-2012 will require that the Board of Supervisors modify its policy for the Park Endowment Trust to utilize the principal balance of the trust,” and that “Unless significant deposits are made to this Trust in the next two years, another source [of] funding will have to be determined or significant changes will have to be made to the operation of the County Park System in 2013-2014.”

Comments made during the 2011-2012 budget hearing were even more pointed. During the question and answer period after the budget presentation, the San Joaquin County Board of

Supervisors Chair made several comments pertaining to the use of trust funds to supplement the budget:

- “What we’ve done over the last two or three years is use reserves, capital project money and obviously park endowment money. Those were all set aside for specific purposes. Obviously the endowment is to use the interest and don’t touch the principal.”
- “Logic would basically say to us that it is an unsustainable practice to eat your young.”
- “When the economy does turn . . . we need to start returning the money we borrowed.”

All subsequent Parks and Recreation proposed budgets included: (1) requests to use the trust funds to supplement the budget, and (2) similar warnings with varying estimates as to when the trust funds would finally be depleted. The 2018-2019 budget year will see the total balance in these trusts drop from a peak of nearly \$5,500,000 dollars at the end of 2012-2013 to less than \$50,000 dollars in 2019. Between 2009-2010 and 2018-2019, just over \$11,000,000 was taken from the Parks Trust Funds to supplement the Parks and Recreation Division budget.

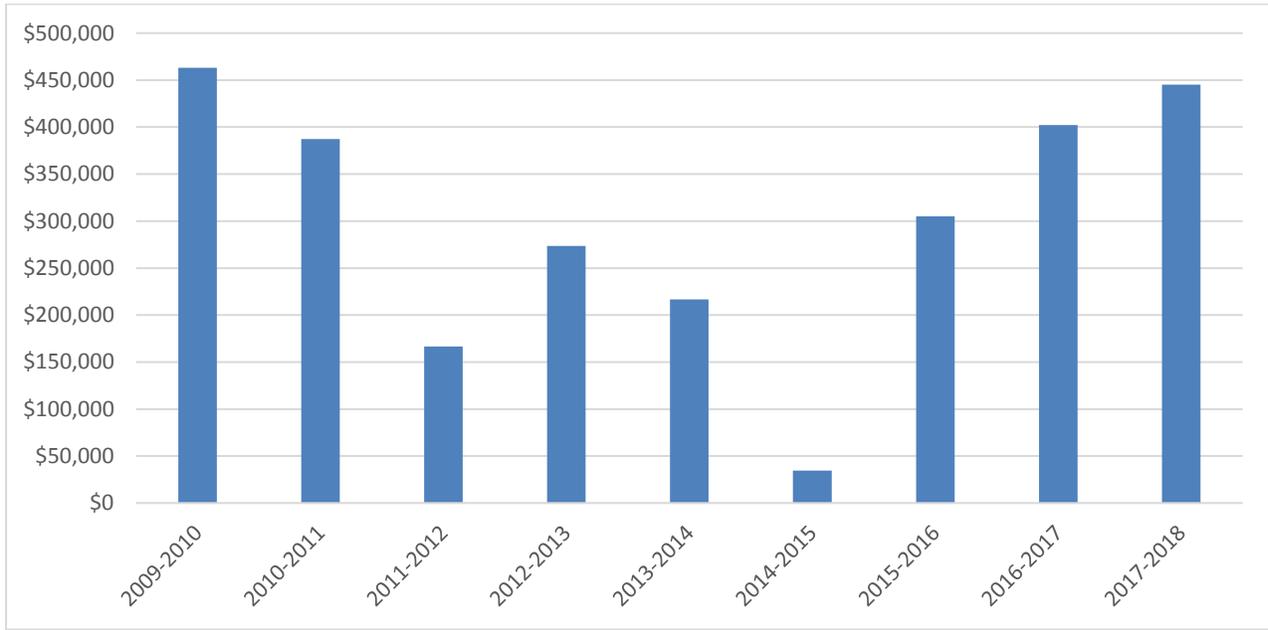
### **Program to Reduce Reliance on Trust Funds**

During the 2011-2012 budget hearings, the Board of Supervisors directed the General Services Director to develop a financial program to reduce the use of trust funds for ongoing parks operations in 2012-2013 and provide an overall balanced Parks and Recreation budget by 2014-2015. A staff report was delivered to the Board of Supervisors on March 26, 2012. This report proposed cutting or delaying filling staff positions and increasing revenue to achieve an estimated savings of nearly \$700,000 in trust fund usage. The report went on to say that “To completely eliminate reliance on the trust funds, more sweeping and drastic measures will have to be considered.” Some of the measures that were to be considered included assessments, special taxes, outside contracting services, park closures, transferring parks to other public agencies, privatization, and turning the zoo operations over to the Zoological Society. The Grand Jury has seen no evidence that any of the proposed measures were implemented.



## Revenue Overestimation

A sizable fraction of the annual Parks and Recreation budget comes from revenue generated by charges for services such as parking, entrance, or use fees. For 2018-2019, charges for services represented 44% of the total budget. Figure 4 below shows the annual shortfall of revenue.



**Figure 4. Annual Revenue Shortfall**

Each year between 2009-2010 and 2017-2018, the revenue estimates in the annual budget exceeded the actual revenue, with a total shortfall during this time period of nearly \$2,700,000. The 2018-2019 budget proposal reduced the estimated revenues by \$358,888 in an attempt to account for these prior overestimations.

## Staffing

The cost of staff is the biggest portion of the annual Parks and Recreation budget. Staffing cuts have been required over the past decade in order to balance the budget. In June 2018, four part-time workers were laid off. Additionally, the 2018-2019 proposed budget called for the elimination of three vacant full-time Park Worker positions and a decrease in part-time help.

## Findings

**F1.1** The Parks and Recreation Division budget has not kept pace with inflation, nor has it benefited from substantial growth in the overall County budget, thereby hindering the Division's ability to maintain and improve the parks.

**F1.2** The reduction in County contributions through Net County Costs has further exacerbated the Parks and Recreation budget challenges.

**F1.3** The Board of Supervisors and the Parks and Recreation Division have continued to supplement the budget with monies from the Parks Trust Funds rather than making the difficult decisions required to balance the Parks and Recreation budget.

**F1.4** The continued borrowing of money to balance the Parks and Recreation budget is an unsustainable practice that has decimated the Parks Trust Funds.

**F1.5** Despite direction by the Board of Supervisors to create a program to reduce reliance on trust funds and provide a balanced budget by 2014-2015, the Parks and Recreation Division continues to rely on trust funds to balance its annual budget.

**F1.6** Despite recognition by members of the Board of Supervisors that the trust funds should be paid back once the economy recovered, no effort has yet been made to repay the “borrowed” money.

**F1.7** Although the Parks and Recreation Division recognized the chronic overestimation of revenues and reduced the revenue estimates in their 2018-2019 proposed budget by nearly \$360,000, data from the prior two years indicate that the revenue estimates should have been reduced by an additional \$100,000.

## **Recommendations**

**R1.1** By March 31, 2020, the Parks and Recreation Division complete a comprehensive analysis of the County parks system that includes the tradeoffs required to operate the system under a structurally balanced budget.

**R1.2** The Parks and Recreation Division develop and present to the Board of Supervisors a structurally balanced and sustainable budget beginning in 2020-2021 that includes realistic estimates for revenue.

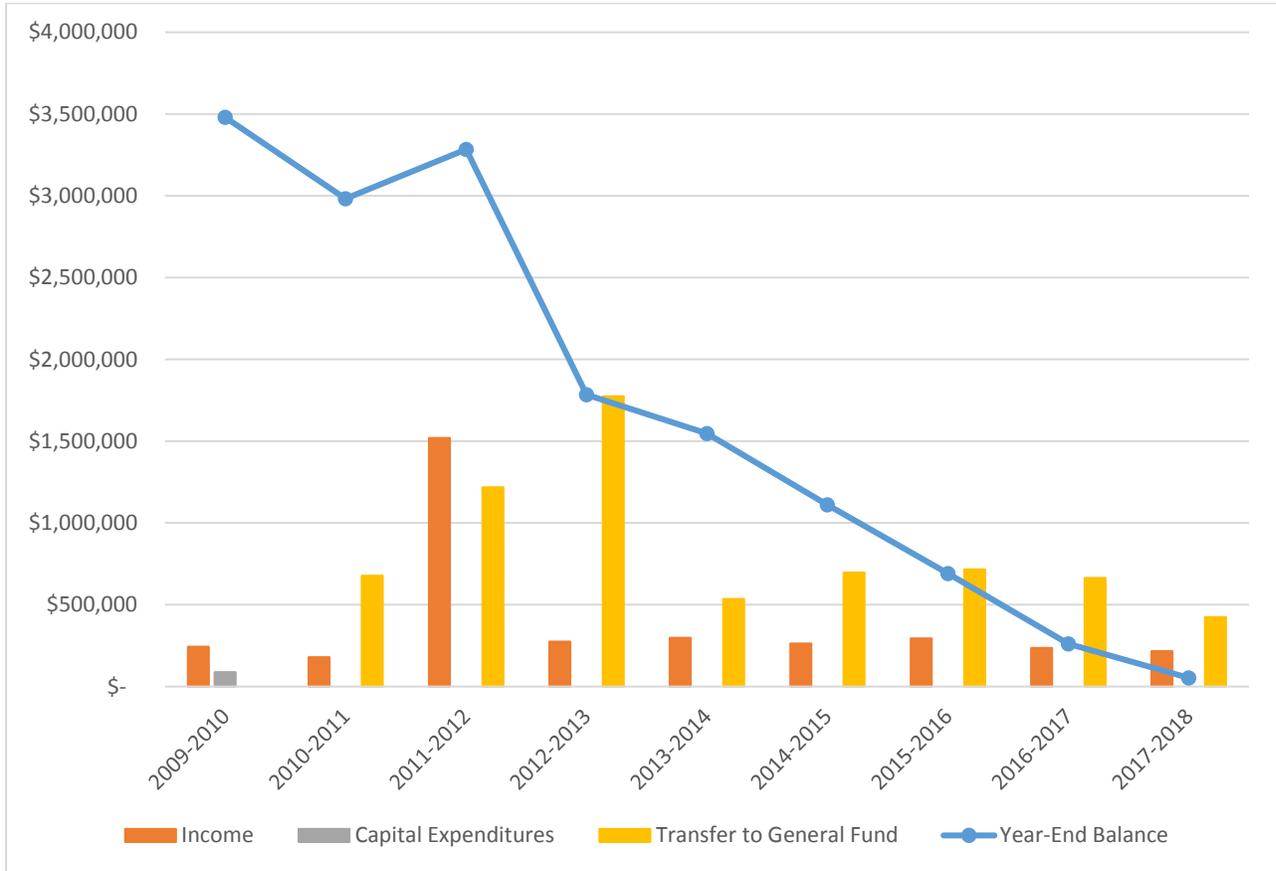
## **2.0 County Managed Trusts**

### **Park Endowment Trust**

The Park Endowment Trust was established on May 26, 1987 as an interest-bearing fund for the purpose of providing financial support to County operated parks. The long-term goal was to add to the principal and use only the interest to fund capital development projects and major equipment purchases. The Board Order (86-1222, May 26, 1987) creating the trust stated that it “...*should not*

*be used to fund ongoing operations.”* Use of any funds in the Park Endowment Trust requires approval of the Board of Supervisors.

Figure 5 below shows the deposits, expenditures, transfers, and year-end balance for the Park Endowment Trust.



**Figure 5. Deposits, Capital Expenditures, Transfers to General Fund, and Year-End Balance for the Park Endowment Trust**

The Micke Grove Golf Links lease is the main source of income for the Park Endowment Trust. Prior to the 2009-2010 fiscal year, there were only a few capital expenditures from the fund, and the trust balance grew to a peak of nearly \$3,500,000. Fiscal year 2009-2010 was the first-time monies were used to supplement the Parks and Recreation budget for ongoing operations. In fiscal year 2010-2011, the Board of Supervisors began approving transfers that included principal out of the Park Endowment Trust into the General Fund to supplement the Parks and Recreation budget. Between 2010-2011 and 2017-2018, a total of \$6,710,102 was transferred out of the Parks Endowment Trust to support ongoing operations and maintenance of the parks. The trust balance at the end of fiscal year 2018-2019 is estimated to be \$3,914.

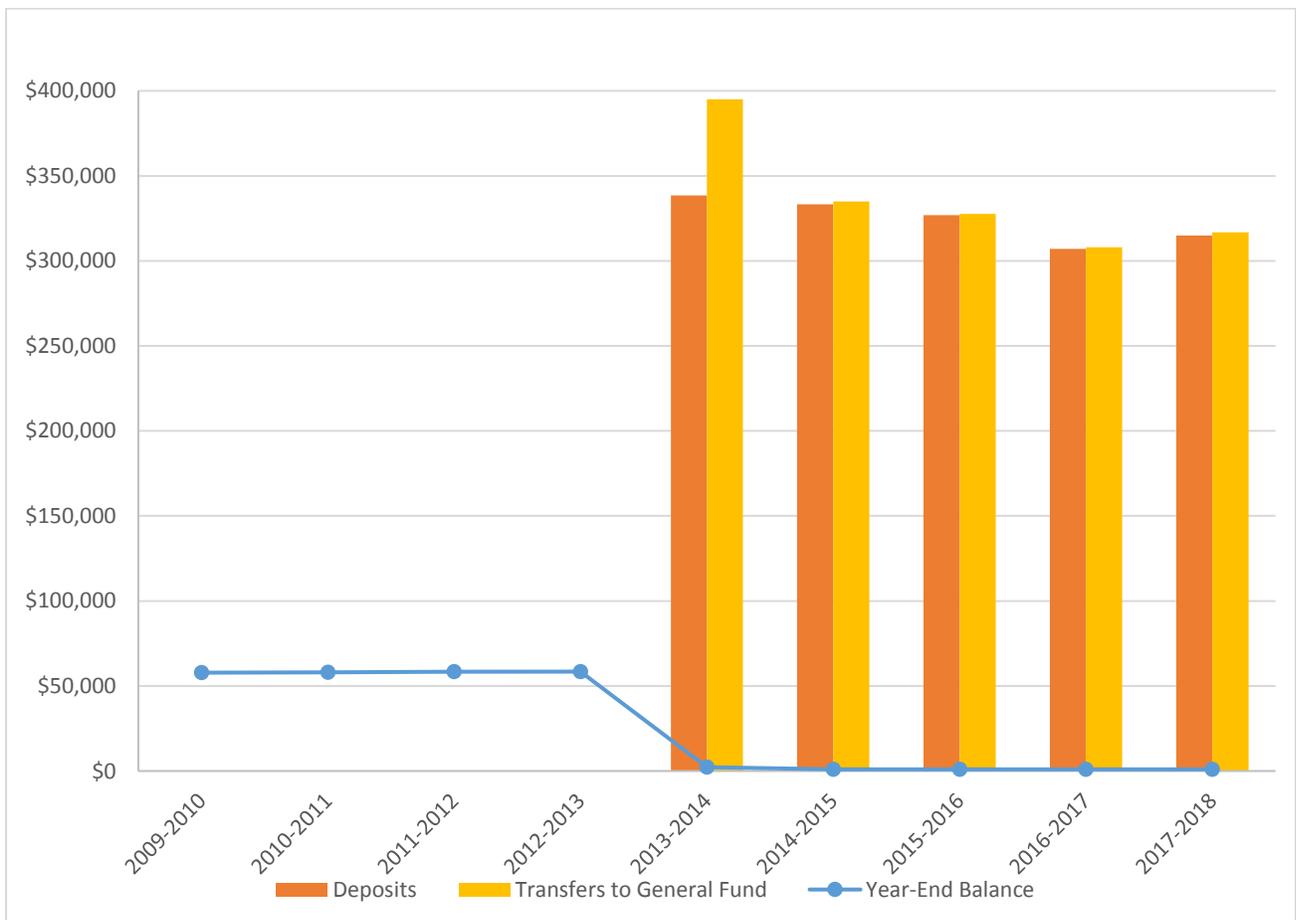
## Findings

**F2.1** Contrary to the original intent of the Park Endowment Trust, the Parks and Recreation Division has proposed, and the Board of Supervisors has approved, the use of principal for operations and maintenance in the park system each year since 2010-2011.

**F2.2** Prior to its near depletion, the Park Endowment Trust was an invaluable resource, providing the Parks and Recreation Division an ongoing source of seed money for capital development projects and major equipment purchases.

### Micke Grove Trust

The Micke Grove Trust was established on January 14, 1986 “for the deposit of the monies from the William G. Micke Estate Trust.” It was further ordered “that no money shall be expended for any reason whatsoever from the Micke Grove Trust Account without the prior authorization by the Board of Supervisors.” Figure 6 below shows the deposits, expenditures, transfers, and the year-end balance for the Micke Grove Trust between the 2009-2010 and 2017-2018 fiscal years.



**Figure 6. Deposits, Transfers to General Fund, and Year-End Balance for the Micke Grove Trust**

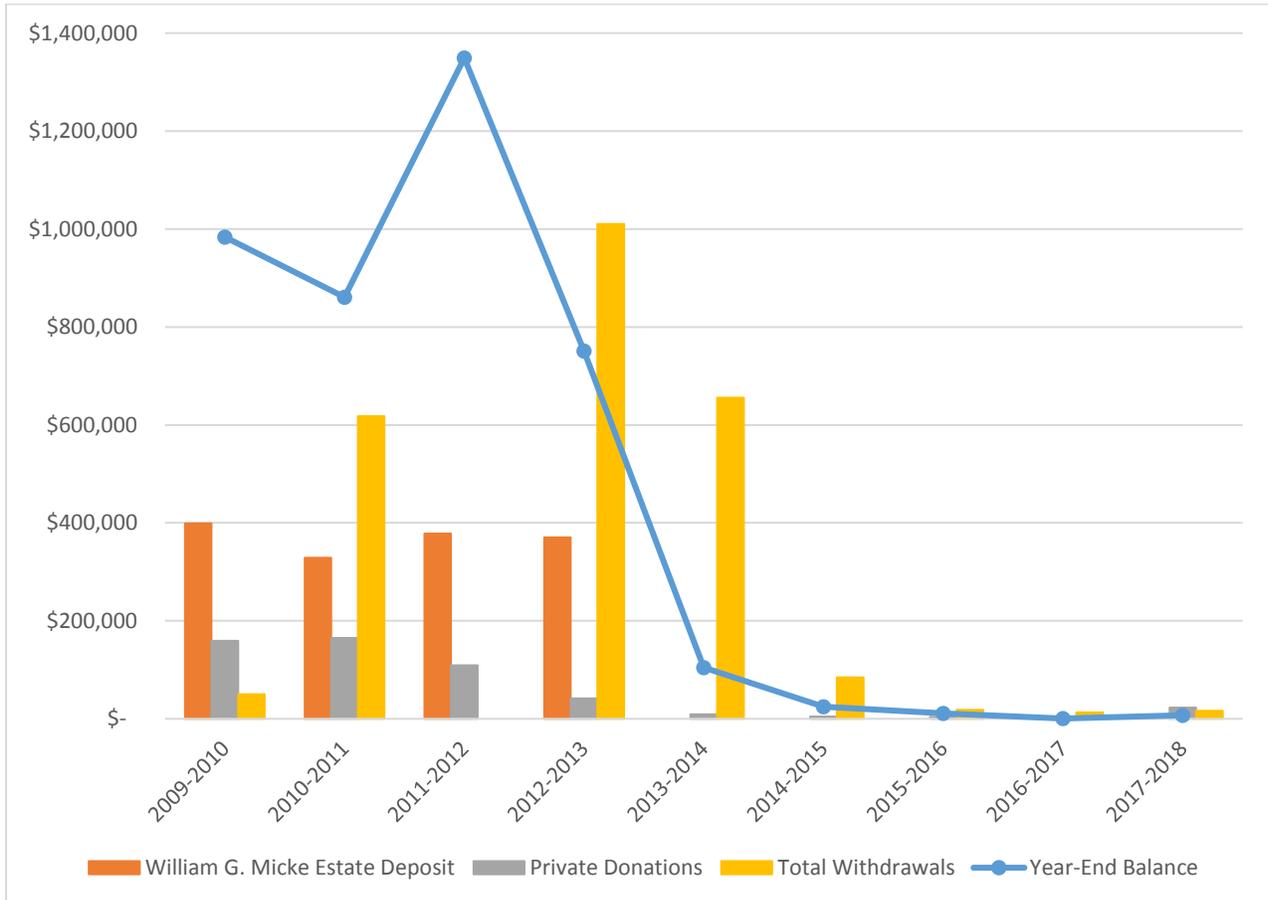
Based on the financial information and legal briefs reviewed by the Grand Jury, the County provided all monies required for the maintenance and operation of Micke Grove Park prior to the 2009-2010 fiscal year. Evidence was found that there were periodic requests by the County for funds from the William G. Micke Estate Trust to pay for equipment and capital improvements.

Internal Revenue Service regulation changes in 2008 began requiring the William G. Micke Estate Trust to annually distribute approximately 5% of the Fair Market Value to the County. Between 2009 and 2012, these required distributions from the William G. Micke Estate Trust were deposited into the Parks Donation Trust. Beginning in 2013, the required distributions were deposited into the Micke Grove Trust. During 2013-2014, the required distribution, along with the prior balance, was transferred from the Micke Grove Trust into the General Fund to supplement the Parks and Recreation budget for ongoing operations of Micke Grove. This practice continues. Between 2013-2014 and 2017-2018, nearly \$1,700,000 was transferred from the Micke Grove Trust into the General Fund to supplement the Parks and Recreation budget. The balance of the Micke Grove Trust at the end of fiscal year 2017-2018 was \$1,000.



## Park Donation Trust

The Park Donation Trust was established on March 11, 1980 to account for donations made for specific park improvements. Figure 7 below shows the deposits, withdrawals, and year-end balance for the Park Donation Trust.



**Figure 6. Deposits, Withdrawals and Year-End Balance for the Park Donation Trust**

At the end of 2011-2012, the Park Donation Trust had a balance of nearly \$1,400,000. During the past decade, almost \$2,500,000 has been transferred out, leaving a balance of less than \$7,000 at the end of 2017-2018.

## Finding

**F2.3** The Park Endowment Trust and the Micke Grove Trust represent an invaluable opportunity to provide an ongoing source of funding for new park initiatives and capital expenditures, if those trust funds are not depleted on an annual basis.

## **Recommendations**

**R2.1** Starting with the 2020-2021 proposed budget, the Parks and Recreation Division discontinue the use of both the Micke Grove Trust and the Park Endowment Trust to fund operation and maintenance of the parks.

**R2.2** The Parks and Recreation Division allow the principal of the Micke Grove Trust and the Park Endowment Trust funds to grow and utilize only the interest to support new park initiatives or capital expenditures.

### **Parks Special Projects Trust Fund**

The Parks Special Projects Trust Fund was established on December 4, 2018 as “a vehicle for funding special projects that will improve efficiencies, add new features, and/or upgrade existing facilities within the County’s park system.” Proceeds of the Trust will be used for these special projects and for ongoing support and maintenance of these special projects. The Board of Supervisors must approve all expenditures from this Trust. Funding for the Trust comes from the transfer of the Angrave property from the Parks and Recreation Division to the Department of Public Works. Four equal payments of \$512,500 will be deposited into the fund by December 31 of 2018, 2019, 2020, and 2021, for a total of \$2,050,000.

## **Finding**

**F2.4** The Parks Special Projects Trust Fund is an excellent addition to the Parks Trust Funds that, with proper management, will provide a valuable source of funding and operational support for special projects for years to come.

## **3.0 Non-County Managed Trusts**

The William G. Micke Estate Trust (the “Trust”) is managed by the trust division of Wells Fargo Bank (the “Trustee”). As stated in the Petition for Instructions (San Joaquin County Superior Court Case #29176), the County of San Joaquin is the beneficiary and the Board of Supervisors is responsible for overseeing the management of the Trust. The Board of Supervisors must also ensure that the monies distributed from the Trust are used in a manner consistent with the requirements of the Trust.

As Trustee, Wells Fargo is responsible for prudently investing the assets in the Trust. Per California Probate Code 16047(a), “A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.” Wells Fargo receives an annual management fee of approximately 1% for managing the Trust.

At the end of 2016, the Trust consisted of a leased orchard and vineyard, securities, and cash. At that time, the value of the land was over 82% of the total value of the Trust, but the return on the land leases was only about 2% of the land's value. Wells Fargo, with the approval of the San Joaquin County Superior Court and the San Joaquin County Board of Supervisors, sold the orchard in 2017 and the vineyard in 2018. The Trust is now entirely in securities and cash. Between 2009 and 2017, the William G. Micke Estate Trust distributed nearly \$3,100,000 to the County. At the end of 2017, the balance of the Trust was almost \$6,600,000.

In order to receive their full management fee, Wells Fargo is required to file a biennial accounting report with the San Joaquin County Superior Court. These reports are legal filings and include a listing of each transaction made by Wells Fargo over the prior two years. However, the reports do not contain a clear and understandable summary of the total return on the investments in the Trust or a performance comparison to appropriate benchmarks.

## **Finding**

**F3.1** The Grand Jury found it difficult to determine Wells Fargo's effectiveness in managing the William G. Micke Estate Trust because the biennial reports filed with the court do not contain performance information.

## **Recommendation**

**R3.1** By December 31, 2019, the Board of Supervisors require Wells Fargo to submit an annual performance report for the William G. Micke Estate Trust. This report shall include the total return compared to an industry standard benchmark with a similar risk profile.

## **4.0 Parks and Recreation Benchmarking Assessment Report**

In 2018, the General Services Department commissioned David Taussig and Associates to conduct the *Parks and Recreation Benchmarking and Assessment Report* (Taussig report). The purpose of the report was "to evaluate how San Joaquin County compares to other counties based on a wide range of quantitative and qualitative information regarding parks, recreation, facilities, employees and finances." This report generated a number of Key Findings, Common Themes, and Recommendations. The issues most pertinent to this investigation are:

- The Parks and Recreation Division does more with less, in comparison to the benchmarked counties
- Existing funding sources are unable to keep up with rising costs of services and maintenance
- A lack of long-term funding options for operations and maintenance
- The Parks and Recreation Division's general fund contribution per capita is the lowest among the benchmarked counties

- Staffing cuts would be inappropriate, and in fact, additional staffing would allow the Division to clear any backlogged tasks and prioritize work with high visibility to the community

Taussig identified three “benchmark” counties geographically close to San Joaquin County that have similar characteristics in terms of median household income, median property value, and land area. The three benchmark counties are Stanislaus, Placer, and Yolo. Table 2 below lists the per capita contributions from the General Fund of each county to their respective parks budget. This shows how much money each county contributes to the park budget per person living in the county.

**Table 2. Comparison of the Per Capita Contribution from the General Fund to the Parks Departments in the Benchmark Counties**

County	San Joaquin	Stanislaus	Placer	Yolo
General Fund Contribution Per Capita	\$3.19	\$5.30	\$5.02	\$4.73

San Joaquin County’s contribution is 33% lower than the next lowest county.

The report further identified that “the Division has approximately 6.61 full-time employees per Regional Park, which is low relative to the benchmarks. Stanislaus and Placer County have, for comparison, approximately 8.40 and 11.00 full-time employees per regional park.”

## Findings

**F4.1** Despite a strong recommendation in the Taussig report that staffing cuts would be inappropriate, the Parks and Recreations Division has continued to eliminate positions.

**F4.2** While “doing more with less” is admirable, it is apparent that the Parks and Recreation Division is at the point of “doing less with less,” especially considering the additional staffing cuts in 2018-2019 and the rising costs of services and maintenance.

**F4.3** The very low per capita contribution from the County is a major factor in the Parks and Recreation Division’s inability to balance the budget.

## Recommendations

**R4.1** By March 31, 2020, the Parks and Recreation Division provide the Board of Supervisors with a plan for addressing the findings in the Taussig report, including: (1) appropriate staffing levels, (2) rising costs of services and maintenance, and (3) long-term funding options.

**R4.2** In the 2020-2021 proposed budget, the Parks and Recreation Division present options to the Board of Supervisors for bringing the per capita contribution more in line with the contributions from the benchmarked counties.

## **5.0 Loss of Historical Knowledge**

Over the past decade, the Parks and Recreation Division has undergone two reorganizations and experienced significant staff turnover, which included six different administrators. One result of such turnover is the loss of historical knowledge. Throughout this investigation the Grand Jury heard conflicting assertions regarding the management of donated property, the stipulations for grants received, and the restrictions on the Parks Trust Funds.

### **Findings**

**F5.1** Departmental reorganizations and turnover have resulted in the loss of historical knowledge amongst the Parks and Recreation leadership and staff.

### **Recommendations**

**R5.1** By June 30, 2020, the Parks and Recreation Administrator gather together into a living document the necessary information to accurately document requirements of the trust funds, the stipulations related to grants awarded for each park, the requirements for managing any property donated to the County parks system, and any other historical information that may be required by future Parks and Recreation Division administrators and employees.

**R5.2** The Parks and Recreation Administrator present this information to the Board of Supervisors during the 2020-2021 budget hearings to ensure the board has a clear understanding of this information when making budget decisions.

## **Conclusion**

Despite recognizing as far back as 2010-2011 that borrowing money from the Parks Trust Funds would eventually lead to their depletion, the Parks and Recreation Division continues to propose, and the Board of Supervisors continues to approve, the use of these trust funds to balance the budget. Ten years of borrowing has resulted in the Parks Trust Funds being depleted to the point where they can no longer provide the level of support needed to maintain the parks system. The Board of Supervisors and the Parks and Recreation Division need to develop and implement a plan for managing the parks system within a structurally balanced and sustainable budget. Only then can these trust funds be replenished and begin again to provide support for the growth and improvement of the County park system.

## **Acknowledgements**

The Grand Jury would like to acknowledge that the General Services Department and Parks and Recreation Division leadership recognizes many of the issues brought forward here. The 2019-2020 Parks and Recreation budget proposal includes a slight reduction in trust fund usage, exploration and implementation of some of the recommendations in the Taussig report, and ideas for revenue enhancement. That being said, the Grand Jury felt it was necessary to present this historical review to help the public, County staff, and the current Board of Supervisors understand the original intent of these trusts, how they have been used, and the fact that these funds have been depleted and can no longer be depended upon to support the Parks and Recreation budget.

The Grand Jury would also like to acknowledge the support of the County Auditor Controller's Office for providing a substantial amount of financial information about the Parks and Recreation Division and the Parks Trust Funds.

## **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 90 days of receipt of the report.

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

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

## Sources

1. San Joaquin County Superior Court Case #29176, for the Estate of William G. Micke, filed June 14, 1977, *Petition for Instruction*.
2. San Joaquin County Superior Court Case #29176, for the Estate of William G. Micke, filed July 6, 1977, *Order Instructing Trustee and Beneficiary*.
3. Internal Revenue Service Code 26 CFR 1.509(a)-4(1) and (j).
4. San Joaquin County Parks and Recreation proposed budgets.  
[https://www.sjgov.org/departments/cao/county\\_budget](https://www.sjgov.org/departments/cao/county_budget)
5. San Joaquin County Board of Supervisors Budget Hearing, June 28, 2011, item number 15.  
<http://sanjoaquincountyca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1586&MinutesID=1522&Format=Minutes&MediaFileFormat=wmv>
6. *Creation of a Park Endowment Trust*, Board Order 86-1222, approved by Board of Supervisors, May 26, 1987.
7. *Resolution to establish Micke Grove Trust Account*, adopted by the San Joaquin County Board of Supervisors, January 14, 1986
8. *Establishment of a Parks Special Projects Trust Fund*, Board Order B-18-772, adopted by the San Joaquin County Board of Supervisors, December 4, 2018.
9. *Staff Report to Reduce Reliance on Parks and Recreation Trust Funds for Operations* dated March 26, 2012, presented to the San Joaquin County Board of Supervisors and approved April 10, 2012.
10. *Parks and Recreation Benchmarking and Assessment Report*, David Taussig and Associates, Inc., June 4, 2018.



# San Joaquin County Grand Jury



**Micke Grove Zoo:**

**Honoring the Past, Securing the Future**

**2018 - 2019 Case #0218**



## Summary

Micke Grove Zoo has long been considered a crown jewel within the San Joaquin County park system. However, over a period of years, the Zoo has lost some of its luster. Though still a favorite of many County residents, Micke Grove Zoo has suffered from inadequate funding and outdated facilities. Loss of accreditation, a failed Master Plan, and multiple departmental reorganizations have further compounded the challenges for this County-owned facility.

The San Joaquin County 2018-2019 Civil Grand Jury investigated the current operations at Micke Grove Zoo after receiving complaints alleging inadequate staffing and funding. The investigation revealed numerous findings regarding the Zoo, including:

- Lack of a Policies and Procedures Manual
- Lack of a Separate Itemized Budget
- Insufficient Staffing
- Deteriorating Infrastructure and Outdated Exhibits
- Performance Issues with Micke Grove Zoological Society
- Lack of a Vision and Master Plan for the Zoo
- Lack of Secured Funding Sources to Improve the Zoo

This report identifies numerous recommendations and opportunities to improve current operations at Micke Grove Zoo, and to create and fund a vision for the Zoo. These recommendations include:

- Developing a Master Plan
- Seeking Affordable Accreditation
- Renegotiating the Operating Agreement with Micke Grove Zoological Society
- Identifying and Pursuing Funding Sources to Improve the Zoo

These recommendations will not only help to improve Micke Grove Zoo today, but establish a vision and blueprint for the Zoo in years to come.

## Glossary

- **AZA:** Association of Zoos and Aquariums
- **County:** San Joaquin County
- **GFAS:** Global Federation of Animal Sanctuaries
- **MGZS:** Micke Grove Zoological Society
- **Taussig Report:** *Parks and Recreation Benchmarking and Assessment Report* (June 2018)
- **ZAA:** Zoological Association of America
- **Zoo:** Micke Grove Zoo

## Background

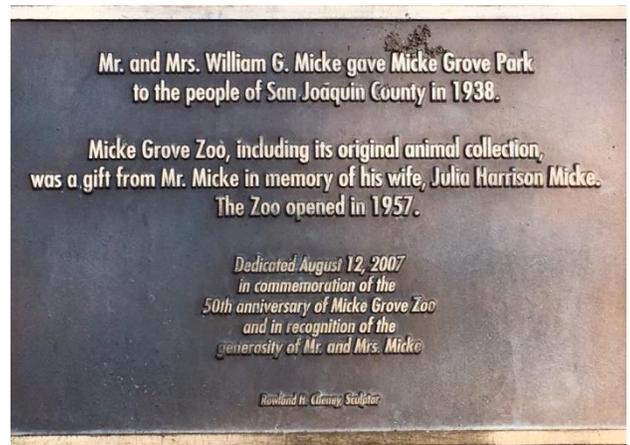
### William G. Micke

William G. Micke was born in Herman, Missouri in 1874. At the age of 35, he moved to Lodi, purchased the old racetrack on the outskirts of town, and planted vineyards producing Tokay grapes. Mr. Micke and his wife Julia were married for over 50 years. After Mrs. Micke died in his arms in 1952 as they watched the Lodi Grape Festival parade, William G. Micke *“...actively began the development of Micke Grove along the lines of a recreational area with particular emphasis upon the welfare of children, which was the matter, so close to the heart of Mrs. Micke. They, having no children of their own, wanted to make the children of the area their children.”* The 1954 will of William G. Micke listed several specific projects, one of which called for: *“Construction, activating, stocking, and placing in operation by said County of San Joaquin, through the Board of Supervisors thereof, in said Micke Grove, of such facilities may be required for the housing and display of birds and small animals for the education and enjoyment of children.”*



### Micke Grove Zoo

Micke Grove Zoo was gifted to the County and opened in 1957 as a memorial to Mrs. Micke’s wishes and vision for children to enjoy. Despite serving the public well for many years, the Zoo eventually began to age and deteriorate. Original exhibits remained and included an extensive collection of animals of all sizes kept in undersized cages compared to today’s standards. Improvements made during the 1980’s culminated in Micke Grove Zoo receiving accreditation through the Association of Zoos and Aquariums (AZA) from 1990-2006. To comply with evolving standards, the Zoo’s animal collection changed to display smaller animals in existing renovated exhibits. The Zoo eventually lost AZA accreditation in 2006 due to outdated exhibits and insufficient veterinary space. Efforts to renovate Micke Grove Zoo through an ambitious 2008 Master Plan were stymied by the economic recession. Over the past decade, the Zoo has suffered through ongoing County budget challenges, changing management, staffing issues, deteriorating infrastructure, and lack of exhibit renovation.



Micke Grove Zoo is a small five-acre zoo located within the 132-acre Micke Grove Regional Park. The Park also includes a Japanese Garden, the San Joaquin County Historical Museum, and Fun Town Amusement Park. The Zoo remains under the ownership of San Joaquin County and is now managed by the Parks and Recreation Division of the General Services Department. The Zoo is currently home to over 170 individual animals, representing over 51 different species from six continents.

### **Micke Grove Zoological Society (MGZS)**

MGZS was established as a nonprofit corporation in 1978 "...to initiate, sponsor, promote, and carry out plans, policies, and activities that will tend to further the prosperity and development of Micke Grove Zoo." MGZS signed an operating agreement with the County in 1999 to clarify its role and responsibilities. Over the past four decades, MGZS has provided San Joaquin County with capital funding, educational programs, and other activities to benefit the Zoo. MGZS is also credited with constructing an education building and veterinary clinic. Their efforts in collaboration with the County resulted in the Zoo achieving AZA accreditation in 1990. In 2012, MGZS made a concerted effort to take over Zoo operations from the County, but negotiations failed. MGZS assumed operation of the Zoo's popular Education Program from the County in 2013. In recent years, the fundraising efforts of MGZS have diminished significantly.

## **Reason for Investigation**

The Grand Jury received a complaint that the San Joaquin County Parks and Recreation Trust Funds were being depleted. The investigation of that complaint resulted in 2018-2019 Grand Jury Report #0118. During the course of that investigation, additional complaints were received alleging inadequate staffing and funding at Micke Grove Zoo. As a result of those concerns, and the significance of Micke Grove Zoo to the surrounding community, the Grand Jury initiated a separate investigation that focused on current operations at the Zoo.

## **Method of Investigation**

### **Materials Reviewed**

- Agreement between the County and the San Joaquin County Zoological Society (dba Micke Grove Zoological Society) (July 13, 1999)
- Annual Budgets for the General Services Department and Parks and Recreation Division
- Board of Supervisors videos, agendas, and minutes
- David Taussig & Associates *Parks and Recreation Benchmarking and Assessment Report* (June 4, 2018)
- Internal Revenue Service Form 990's for Micke Grove Zoological Society and San Joaquin County Historical Society

- Memo of conversation between Mr. Micke and his attorney (December 1960)
- Micke Grove 2008 Master Plan, WDM Architects
- *Micke Grove Zoo Concept Planning*, Ursa International (September 2013)
- Newspaper Articles from the *Lodi News Sentinel* and the *Stockton Record*
- San Joaquin County website, mgzoo.com

### **Interviews Conducted**

- County Administrative and Management personnel
- Current and former San Joaquin County Park Commissioners
- Current and former San Joaquin County Parks and Recreation staff
- Current and former Micke Grove Zoo staff
- Member of the Board of Supervisors
- Members of the Micke Grove Zoological Society

### **Sites Visited**

- Micke Grove Zoo
- Micke Grove Zoological Society Meeting
- San Joaquin County Park Commissioner Meetings

## **Discussions, Findings, and Recommendations**

### **1.0 Micke Grove Zoo Today**

#### **Policies and Procedures**

San Joaquin County is one of few counties to operate a zoo. The consultant report prepared by Dave Taussig & Associates (Taussig Report) in June 2018 stated that *“County-run zoos are a bit of a rarity, and most tend to be larger in scale than Micke Grove.”* Operating a zoo presents many challenges. Providing proper care for animals and keeping accurate veterinary records is only one aspect of managing a zoo. Upkeep of the zoo grounds is critical. Buildings, pathways, fences, and animal enclosures must be properly maintained to ensure a safe environment for staff, visitors, and animals.

The successful operation of any organization is achieved by having policies and procedures that clearly define all duties and responsibilities for its employees. Policies are written documents intended to guide decisions and achieve goals. Micke Grove Zoo does not have a Policy and Procedures Manual. Protocols for animal trainings, safety issues, record keeping, and maintenance schedules are just a few of the procedures that must be created. The newly hired Parks

Administrator and Zoo Manager have recently begun writing a Policy and Procedures Manual for the Zoo.

## **Finding**

**F1.1** The lack of a Policy and Procedures Manual for Micke Grove Zoo creates inefficiencies and potential liabilities for the Parks and Recreation Division and San Joaquin County.

## **Recommendation**

**R1.1** The San Joaquin County Parks and Recreation Division develop a written Policy and Procedures Manual for all Micke Grove Zoo operations by June 30, 2020.

## **Inspections/Permits**

Micke Grove Zoo is required to undergo several annual inspections. The United States Department of Agriculture conducts an annual inspection to ensure proper animal care and that Animal Welfare Act rules regulating captive wild animals are being followed. The California Department of Fish and Wildlife also inspects annually to determine compliance with regulations pertaining to enclosures, fencing, and other basic maintenance. No major deficiencies were noted during the inspections conducted by these respective agencies during 2018. The Zoo Manager is responsible for ensuring all required standards are met, while the Zoo Curator is responsible for ensuring all required permits are current.

## **Budget**

Adequate funding to maintain Micke Grove Zoo continues to be a challenge. Over the past 10 years the budget for San Joaquin County has increased by 39%, while the Parks and Recreation Division budget has declined 16%. Day to day operational costs, deferred maintenance costs, and capital improvement costs all compete with the many service demands that are deemed a higher priority by the County. According to the Taussig Report, *“...zoos of this form and size simply are not profitable. They rely heavily on donations, sponsorships, and foundation funding to remain operational.”* Funding for the Zoo has historically been provided by the net operations of the Zoo, the General Fund, and fundraising by MGZS. Beginning in 2009, the County began using various trust funds to help balance the budget. Those trust funds are now near depletion and can no longer be relied on for financial support. That leaves the burden of funding the Zoo to the County and MGZS.

Contributing to the funding burden is the lack of a detailed and comprehensive budget for the Zoo. Currently, the Parks and Recreation Division has no means to track individual line item costs for the Zoo. Without a detailed budget, it is impossible to manage the Zoo effectively and determine the true cost of operating the Zoo. A well-crafted budget will allow for goal setting and financial accountability. It will also allow for adjustments to unforeseen changes in revenue or expenses.

## **Finding**

**F1.2** The lack of a detailed and comprehensive budget for Micke Grove Zoo makes proper financial management difficult.

## **Recommendation**

**R1.2** The San Joaquin County Parks and Recreation Division develop a detailed and comprehensive budget for the Zoo that includes assumptions for every income and expense line item by December 31, 2019.

## **Staffing**

Personnel are key to the successful operation of a zoo. Zookeepers must maintain a routine for the animals and be trained in animal safety. Duties include cleaning enclosures, feeding animals, and providing needed enrichment and training for each animal under their care. Proper training of animals is essential for safely moving them to clean their enclosures or provide veterinary care. Micke Grove Zoo is contracted with the University of California at Davis for needed veterinary care.

Micke Grove Zoo has experienced significant staff turnover during the past eight years. The Zoo did not have a permanent Manager from 2012 to 2017, during which time the position was vacant for two years. A capable Zoo Manager was hired in 2017 and left after one year. The current Manager was hired in October 2018 and has been a welcome addition. However, the significant turnover of administrators and staff within the Parks and Recreation Division during the past decade, coupled with multiple departmental reorganizations, has created a void of historical knowledge and a lack of continuity and leadership for Zoo staff.

The Taussig report finding that the Zoo is understaffed is not readily accepted by County management, who are more apt to cite staffing inefficiencies and a lack of cross-training. Although the report stated it would be detrimental to decrease staff at the Zoo, four part-time employees were laid off in June 2018, the same month the report was accepted by the Board of Supervisors. To their credit, the Parks and Recreation Division is proceeding with cross-training of Zoo staff in an effort to address inefficiencies. There are presently four full-time Zookeepers. This investigation confirmed that at least five full-time Zookeepers are needed to adequately staff the Zoo.

## **Finding**

**F1.3** Micke Grove Zoo staff and operations have been negatively impacted by departmental reorganizations, turnover in administrators and staff, layoffs of part-time employees, understaffing, and lack of cross-training.

## Recommendation

**R1.3** The San Joaquin County Parks and Recreation Division complete necessary cross-training for all current Zoo staff members and hire at least one additional full-time Zookeeper by June 30, 2020.

### Infrastructure/Maintenance

Despite Micke Grove Zoo receiving a \$513,000 State grant in 2016 to replace perimeter fencing and complete sewage system repairs, there remain substantial infrastructure repairs needed to the water and sewage systems.

Another challenge for the Zoo is the maintenance of older structures and exhibits that need renovation or replacement. Compounding this issue is the lack of a preventive maintenance schedule for buildings, enclosures, and equipment. There is also a lack of recordkeeping for past repairs completed at the Zoo. The County is making repairs as needed, but lacks a proactive process to address maintenance problems before they occur.

## Finding

**F1.4** The lack of a preventive maintenance schedule and record of repairs has resulted in increased costs and staff time in maintaining Micke Grove Zoo.

## Recommendation

**R1.4** The San Joaquin County Parks and Recreation Division develop a preventive maintenance schedule and accurate repair record for Micke Grove Zoo by June 30, 2020.

### Animal Exhibits

Despite being small, Micke Grove Zoo maintains an impressive diversity of animals. Many are rare, endangered, or threatened in the wild. Visitor favorites include the Snow Leopard, Lemurs, Puda, Fossa, Black Parrot, Ibis, Tamarinds, and California Golden Eagle.

Renovation or replacement of aging exhibits and enclosures has been minimal over the past decade. The Black Parrot exhibit was one recent renovation. However, many exhibits and enclosures need substantial repair or renovation, including the Snow Leopard enclosure.



### Micke Grove Zoological Society (MGZS)

MGZS is led by a volunteer Board of Directors and currently manages the Membership Program, Education Program, and fundraising events for Micke Grove Zoo. MGZS oversees two full-time and

two part-time employees, and is responsible for conducting the Zoo Summer Camp and Zoo After Dark events. The County contributed \$100,000 in 2017 and 2018 to help fund the Education Program.

MGZS is contracted with the County to operate the gift shop and concession stand at the Zoo. The Taussig Report states, “The gift shop was previously not operational due to staffing constraints and has recently reopened on weekends with sporadic hours of operation. The concession stand has remained closed, as the business model has failed to attract new operators.” The closure of these venues is detrimental to the visitor experience and has resulted in lost proceeds for MGZS.



Despite having numerous volunteers and bearing the responsibility for fundraising, MGZS has experienced limited success in providing financial support for the Zoo in recent years. The Taussig Report recommended that the 1999 operating agreement between MGZS and the County be renegotiated to clarify roles and responsibilities between the two entities. The Report also recommended adding a provision that would require MGZS to provide and publish annual reports easily accessible to the public.

## Findings

**F1.5** The inability of MGZS to operate the concession stand and gift shop, as well as provide necessary fundraising support, demonstrates noncompliance with the 1999 operating agreement with San Joaquin County.

**F1.6** The inability of San Joaquin County to ensure compliance with its 1999 operating agreement with MGZS has been financially detrimental to Micke Grove Zoo and its visitors.

## Recommendation

**R1.5** The San Joaquin County General Services Department renegotiate their operating agreement with MGZS to update and clarify assigned roles and responsibilities by June 30, 2020.

## 2.0 A Vision for Tomorrow

### County Commitment

Consistent with William G. Micke’s original gift and intentions, San Joaquin County continues to retain ownership and responsibility for Micke Grove Zoo. Over the past decade, there have been various discussions by members of the Board of Supervisors regarding the viability of continuing to

operate the Zoo in a budget-challenged county. As a result of this and other factors, the County's long-term commitment to the Zoo has been rightly questioned.

Throughout this investigation, County leaders have consistently affirmed their support and commitment to Micke Grove Zoo. The expressed concerns of County leaders pertain primarily to the configuration and type of zoo that the County can financially afford moving forward. County leaders are supportive of a County-led improvement plan for Micke Grove Zoo, and are not considering privatization or closure of the Zoo.

## **Finding**

**F2.1:** Despite budget challenges, San Joaquin County leadership is committed to the continued operation and improvement of Micke Grove Zoo.

### **Public Feedback**

On October 25, 2016, the San Joaquin County Board of Supervisors requested that the General Services Department provide a "zoo action plan" that included details on "what residents want" at Micke Grove Zoo. General Services presented their "Micke Grove Zoo Survey Results" to the Board of Supervisors on July 24, 2018.

The public survey responses were generally favorable and supportive of Micke Grove Zoo. Positive comments were received regarding the beautiful location, the exotic animals, and the Zoo being a great place for small children.

Perhaps most helpful to a zoo seeking to increase its popularity and support were the critical responses and requested improvements for Micke Grove Zoo, including:

- Zoo needs updating
- Add new and more variety of animals
- Add interactive experiences, including opportunities to feed animals
- Reopen the concession stand
- Have staff present to answer questions
- More special events
- Create a VIP members program with privileges

As County leadership moves forward in determining the kind of zoo that residents want and the County can afford, the critical feedback received through the public survey will help guide the process to ensure public support and success.

## **Finding**

**F2.2:** The residents of San Joaquin County value Micke Grove Zoo and desire to see it improved.

## Master Plan

After Micke Grove Zoo lost AZA accreditation in 2006 due to its outdated exhibits, an ambitious and expensive Master Plan was developed and unveiled in 2008. Due to the corresponding and prolonged economic recession, only a portion of the planned improvements were actually built. The 2008 Master Plan is currently viewed by County leaders as cost-prohibitive and no longer conforming to evolving AZA standards.

For most of the past decade, Micke Grove Zoo has continued to operate without a defined plan or vision. County leaders now acknowledge that a strategic plan to improve the Zoo is essential and indicate they are currently working towards that goal. It is noted that one of Micke Grove Zoo's stated "Guiding Principles" is *"Ensuring a Secure Future Through Balanced Development."* The recent Taussig Report included a recommendation that the County *"...evaluate its strategic options for Micke Grove Zoo"* as to their intention *"...to renovate and revitalize the Zoo."*

Prior to developing a master plan for physically improving Micke Grove Zoo, the County must decide what kind of zoo is both desirable and affordable moving forward. Decisions regarding the variety of animals (e.g. exotic and/or native species), the number of animals, the level of public engagement with animals, and the incorporation of educational opportunities, are just a few of the critical factors that will influence the configuration and operation of the Zoo into the future. The following statement is currently found on the Zoo's website: *"Micke Grove Zoo is focused on providing quality care to a diverse collection of exotic and native species that will provide you an opportunity to connect with nature in a way found nowhere else in the area."* The website also defines it as *"a small Zoo...committed to housing and displaying animals appropriate for the size and scope of our facility."* Such statements will need to be reevaluated to determine if they will continue to accurately reflect the vision and purpose of the Zoo.

A cost analysis of all needed infrastructure improvements must be done in conjunction with a new master plan for the Zoo. Additionally, County management and Zoo staff generally agree that the unfinished East End Project, including the snow leopard exhibit, is the necessary starting point for any renovation of the Zoo.

County leadership is admittedly inexperienced in zoo management. As such, the guidance and expertise of industry professionals in both determining and designing the future of Micke Grove Zoo is essential. Additional guidance might also be obtained through other zoos. The nearby Sacramento Zoo drafted a new Master Plan in 2017 and may be able to provide valuable assistance.

## Findings

**F2.3** Developing a vision and plan for the future of Micke Grove Zoo is essential to generating the financial support necessary to make that vision a reality.

**F2.4** San Joaquin County leadership must obtain the guidance and expertise of industry professionals in both determining and designing the master plan for Micke Grove Zoo in order to ensure its successful future.

## **Recommendations:**

**R2.1** The San Joaquin County General Services Department complete and present to the Board of Supervisors an analysis of viable options for the future direction of Micke Grove Zoo, including what they envision the Zoo to be in five, ten, and twenty years by June 30, 2020.

**R2.2** The San Joaquin County General Services Department develop and present to the Board of Supervisors a professionally designed Master Plan for Micke Grove Zoo, which includes development goals for the next five, ten, and twenty years by December 31, 2020.

## **Accreditation**

Most reputable zoological facilities, aquariums, wildlife parks, and animal sanctuaries in the United States seek accreditation approval through a recognized professional association. The main accrediting organizations for such facilities are:

- The Association of Zoos and Aquariums (AZA)
- The Global Federation of Animal Sanctuaries (GFAS)
- The Zoological Association of America (ZAA)

AZA accreditation is often considered the "best" accreditation a zoological facility can attain, due to their incredibly high standards and stringent requirements. Accreditation through AZA is a long and often expensive process for facilities. AZA accredited zoos must reapply for accreditation every five years, and are continuously evolving as standards are constantly being raised.

ZAA is the second largest professional association in the zoological sector, with more than sixty accredited members. ZAA claims that their safety record is the best of any of the major zoological associations. ZAA also states that their "accreditation has been recognized by federal, state, and local governments who frequently adopt or incorporate our standards into their respective wildlife requirements." ZAA accredited zoos must also reapply for accreditation every five years.

GFAS is the equivalent accrediting organization for animal sanctuaries, rescue centers, and rehabilitation centers.

The benefits of accreditation through a recognized professional association are numerous and include the following:

- Enhanced public confidence by ensuring the zoo meets current professional standards
- Increased eligibility for funding and grants from certain foundations and organizations
- Improved public perception that encourages potential donors and sponsors
- Increased access to animals from other accredited zoos for loan and/or breeding
- Enhanced opportunities to participate in animal conservation programs
- Improved ability to attract and retain a high-quality, professional staff
- Opportunities for mentorship, collaboration, and consultation with experienced colleagues

County staff and the MGZS collaborated to fund and achieve AZA accreditation for Micke Grove Zoo in 1990, and again in 1995, and 2000. The Zoo lost accreditation in 2006 due to its outdated exhibits. Zoo professionals have emphasized the importance of regaining accreditation for Micke Grove Zoo. However, it was also reported that many of the existing structures are so outdated that meeting the current standards for AZA certification would be cost-prohibitive. The opportunity for the Zoo to achieve accreditation through ZAA appears to be more realistic considering the current condition of the Zoo and the financial limitations of the County. ZAA accreditation offers many of the same benefits as AZA, but allows more flexibility and affordability for the County. Like AZA, ZAA also has a mentorship program for facilities pursuing accreditation. The Orange County Zoo is another county-owned zoo that is currently accredited by ZAA.

## **Findings**

**F2.5** Owning and operating a zoological facility today where animal care standards are subject to intense scrutiny and criticism may necessitate certification from a recognized professional association. Such certification is further justified through numerous additional benefits.

**F2.6** Regaining accreditation through the Association of Zoos and Aquariums (AZA) may not be practical or affordable for Micke Grove Zoo due to the stringent requirements and constantly evolving standards.

**F2.7** Accreditation through the Zoological Association of America (ZAA) offers many of the same benefits as AZA, but may allow more flexibility and affordability as the County works to improve Micke Grove Zoo.

## **Recommendation**

**R2.3** The San Joaquin County Parks and Recreation Division examine the requirements and affordability for obtaining accreditation from available accrediting associations, and pursue appropriate accreditation as part of the County's Master Plan to improve Micke Grove Zoo by December 31, 2020.

## **3.0 Funding the Vision**

### **County Responsibility**

As the owner of Micke Grove Zoo, San Joaquin County retains the primary responsibility to determine the future vision for the Zoo, as well as to ensure that sufficient long-term funding is secured to finance that vision. This presents a significant challenge for the County based upon numerous factors delineated in the recent Taussig Report, including:

- Operating the Zoo is not profitable
- The County General Fund contribution to Parks and Recreation is below average (per capita)
- Limited fundraising contributions from MGZS in recent years

- Lack of corporate sponsorship
- Depletion of Parks Trust Funds

The Taussig Report emphasized the County’s funding challenge with the following statement: *“The identification of avenues to future financing will prove paramount to the Zoo’s fiscal viability going forward.”*

The essential first step for the County is to cast the vision for the Zoo’s future. Vision always precedes provision. Additional next steps for the County to fulfill that vision include:

- Ensuring adequate fundraising through MGZS or another non-profit foundation
- Obtaining accreditation to enhance sponsorship and grant opportunities
- Establishing corporate sponsorships
- Obtaining State funding through grants and voter-approved ballot propositions
- Replenishing Trust Funds for future capital projects
- Facilitating collaboration amongst all partners and stakeholders

One of Micke Grove Zoo’s stated policies is: *“Revenue resources will be identified and cultivated to assure continued ability of the Zoo to serve the entire community.”* Multiple funding sources and partnerships will be necessary to fulfill the future vision and Master Plan for the Zoo. San Joaquin County must either initiate or delegate the pursuit of various funding opportunities, then follow through to ensure accountability in cultivating those opportunities.

## **Finding**

**F3.1** San Joaquin County’s ability to identify and secure multiple funding sources will be critical to fulfilling the future vision for Micke Grove Zoo.

### **Micke Grove Zoological Society**

Since its inception in 1978, MGZS has been instrumental in raising millions of dollars to fund capital improvements and new animal exhibits. However, the ability of MGZS to raise funds for Micke Grove Zoo has substantially diminished over the past decade. The decline in fundraising resulted from numerous factors, including: economic recession, County budget cutbacks and departmental reorganizations, abandonment of the 2008 Zoo Master Plan, failure to complete the East End Project, and the transfer of all educational program responsibilities from the County to MGZS. While placing blame on the County for lack of commitment and priority for the Zoo, MGZS also acknowledges their responsibility in being unable raise funds to pay for new exhibits. The end result has been a strained and dysfunctional relationship between the County and MGZS that lacks necessary collaboration and no longer complies with the requirements of the 1999 operating agreement between the two entities. That agreement specifically gives MGZS the responsibility to *“carry-out plans to initiate, sponsor and promote activities that will raise money to encourage the prosperity and development of the Zoo.”*

The Taussig report made clear that *“Zoos rely heavily on donations, sponsorships, and foundation funding to remain operational.”* The report also stated that *“...third party non-profit organizations affiliated with the benchmarked zoos provide a high-level of support by assisting with operational demands and sourcing and administering corporate sponsorships and fundraising events.”* The report further concluded that the fundraising efforts for Micke Grove Zoo *“...have yielded limited results in recent years”* and that the County should renegotiate their operating agreement with MGZS.

A review of tax documents from 2010-2016 for both MGZS and the San Joaquin County Historical Society (see Appendix A) reveals an obvious disparity in fundraising results between the two non-profit organizations. If MGZS is to remain the designated organization responsible for raising funds for the future Micke Grove Zoo, then collaboration with the Historical Society would prove beneficial in improving fundraising efforts moving forward.

Financing the vision for the future Micke Grove Zoo requires a third-party non-profit or foundation capable of raising significant funds. The County and MGZS need to determine if MGZS will be that essential fundraising organization or whether a separate charitable foundation, similar to the Happy Hollow Zoo Foundation in San Jose, should be established. It is the County’s responsibility to ensure compliance with their operating agreement with MGZS and to renegotiate that agreement as necessary.

## Findings

**F3.2** A non-profit organization or foundation capable of raising significant funds is essential to fulfilling the future vision for Micke Grove Zoo.

**F3.3** The recent fundraising results from the Micke Grove Zoological Society are insufficient to support the necessary improvements for Micke Grove Zoo.

## Recommendation

**R3.1** The San Joaquin County General Services Department determine the role and responsibility of the Micke Grove Zoological Society for fundraising to support the future vision for Micke Grove Zoo, and renegotiate their operating agreement accordingly by June 30, 2020.

### Corporate Sponsorships

Perhaps the most promising of all long-term funding sources for Micke Grove Zoo is the potential for corporate sponsorship. The proximity of the Zoo to the increasingly successful Lodi wine industry offers an opportunity for significant support and possible naming rights. The marketing potential in this relationship is presently being tapped for the MGZS fundraising event “Wild About Wine” being held in June 2019.



It should be emphasized that the potential for obtaining corporate sponsorships is greatly enhanced by accreditation and the development of a clear vision and plan for the future Zoo.

### **State Funding**

Proposition 68 was approved by California voters in June 2018 and is intended to “...*expand access and infrastructure in State and local park systems*”. The County should explore this and other available options for State funding.

### **Grants**

Additional funding through public and private grants may be available and should be pursued. The Taussig report stated that, “*Coordination and outreach with San Joaquin County’s Department of Community Development is vital to accessing additional sources of grant funding.*” The report also emphasized that “...*accreditation improves access to grant programs.*”

### **Tax Measure**

The viability of obtaining voter approval of a sales tax measure to improve Micke Grove Zoo is questionable at this time. The Fresno Zoo was successful in the passage of Measure Z, a .1% sales tax measure approved by two-thirds of voters in 2004. Ironically, a billboard advertising the Fresno Zoo was recently sighted in San Joaquin County.

### **Finding**

**F3.4** The opportunities for San Joaquin County to obtain funding support for Micke Grove Zoo through corporate sponsorships and grants are hindered by lack of accreditation and a new Master Plan for the Zoo.

### **Recommendation**

**R3.2** The San Joaquin County General Services Department evaluate all available funding sources for the improvement of Micke Grove Zoo and report their findings to the Board of Supervisors by December 31, 2020.

## **Conclusion**

More than 60 years ago, Julia Micke had a vision which resulted in her husband’s efforts to build a zoo for the enjoyment of all, especially children. San Joaquin County remains the designated caretaker of that vision. After years of neglect, the vision needs refreshing and reimagining in order to benefit future generations.

After Micke Grove Zoo lost its accreditation in 2006, the AZA accreditation commission stated that: “*This zoo has great potential with the area increasing rapidly in population. Without a forward-thinking governing authority, strong advocates in community, and a clear vision in direction from staff, the potential cannot be realized.*” That assessment remains true for Micke Grove Zoo today.

The 2018-2019 Grand Jury has indicated numerous findings and recommendations to help current conditions at the Zoo, while providing direction for both developing and funding a vision for the future of the Zoo. Though much has changed in the past 60 years regarding standards for animal care and conservation, the core vision remains of Micke Grove Zoo as a place “...for the education and enjoyment of children.”

### **Acknowledgements**

The Grand Jury would like to acknowledge the many dedicated individuals, County employees, MGZS members, and Park Commissioners that lovingly serve Micke Grove Zoo, and who desire to see this jewel of San Joaquin County shine once again as an enjoyment for future generations.

### **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 90 days of receipt of the report.

The San Joaquin County Board of Supervisors shall respond to all Findings and Recommendations.

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

## Appendix A

**Table 1. Revenue comparison between the Historical Society and Micke Grove Zoological Society**

Fiscal Year	Membership Dues		Fundraising Revenues		Grants	
	Historical Society	MGZS	Historical Society	MGZS	Historical Society	MGZS
2016	\$86,895	\$33,982	\$63,518	\$8,420	\$349,965	\$0
2015	\$96,161	\$34,547	\$73,326	\$24,178	\$349,965	\$0
2014	\$84,902	\$47,911	\$76,727	\$21,484	\$349,965	\$0
2013	\$79,695	\$37,814	\$77,002	\$16,071	\$333,300	\$0
2012	\$78,750	\$26,174	\$30,283	\$28,129	\$303,000	\$0
2011	\$81,807	\$22,340	\$53,724	\$28,948	\$275,000	\$0
2010	\$80,294	\$17,165	\$48,901	\$15,375	\$243,000	\$0

# San Joaquin County Grand Jury



## Cold Cases in San Joaquin County:

### On the Back Burner

### 2018 - 2019 Case #0318

#### Summary

The San Joaquin County 2018-2019 Civil Grand Jury investigated the various municipal and county law enforcement agencies throughout the County to determine the status of cold case investigations. This investigation was initiated as a result of recent media coverage and public interest in cold case investigations. Specifically, the Grand Jury sought to: (1) determine the number of cold case homicides, sexual assaults, and missing persons with suspicious circumstances, and (2) examine the staffing, funding, processes, and effectiveness of cold case investigations in San Joaquin County.

In the course of the investigation, various administrative and investigative personnel from law enforcement agencies throughout San Joaquin County were interviewed. The Grand Jury also conducted a cold case survey of various law enforcement agencies in San Joaquin County. In addition, numerous materials pertaining to cold case investigations were reviewed. The Grand Jury also toured the California Department of Justice crime laboratory in Ripon.

The following sections highlight the most significant findings and recommendations determined by the Grand Jury as a result of this investigation:

#### Major Findings

- There are more than 500 cold case homicides in San Joaquin County, including at least 12 homicide victims whose remains have never been positively identified. The exact

number of cold case homicides is unknown due to the lack of a consistent “cold case” definition and the lack of a digitized tracking system.

- Cold case homicide investigations in San Joaquin County rarely result in case closure, arrest or prosecution. This is a contributing factor to the increasing number of cold case homicides in San Joaquin County.
- There is insufficient staffing and funding for cold case investigations in San Joaquin County due primarily to financial limitations and lack of priority.

## Major Recommendations

- The San Joaquin County Sheriff and the San Joaquin County District Attorney utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Sheriff’s Detectives and at least two full-time District Attorney’s Investigators dedicated solely to cold case investigations no later than December 31, 2019.
- The City of Stockton utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Police Detectives dedicated solely to cold case investigations no later than December 31, 2019.
- The San Joaquin County District Attorney’s Office establish a Cold Case Task Force and each law enforcement agency in San Joaquin County sign a Partnership and Cooperation Agreement with the Cold Case Task Force no later than March 31, 2020.
- Each law enforcement agency in San Joaquin County expand their definition of “cold case” to include missing persons with suspicious circumstances, and sexual assault (forcible rape and attempted rape), in addition to homicide no later than March 31, 2020.

## Glossary

- **CA DOJ:** State of California Department of Justice
- **CODIS:** Combined DNA Index System; enables federal, state and local forensic laboratories to exchange and compare DNA profiles electronically, thereby linking serial violent crimes to each other and to known offenders.
- **Cold Case Accountability Act of 2020:** A change.org petition seeking new federal legislation to assist cold case investigations and support families of cold case victims.
- **County DNA Identification Fund 20737:** Fund that receives San Joaquin County share of Proposition 69 fees collected by courts for criminal offenses.
- **DNA:** Deoxyribonucleic acid; a chemical which is found in virtually every cell of the body and determines each individual’s hereditary characteristics.
- **DNA Phenotyping:** The prediction of physical appearance from DNA.
- **FamilyTreeDNA:** Company providing direct-to-consumer DNA testing for ancestry.

- **GEDmatch.com:** An open data personal genomics database and genealogy website.
- **Genetic Genealogy:** The combination of DNA analysis with traditional historical and genealogical research to study family history and identify persons.
- **Measure A:** Ballot measure approved by Stockton voters in 2013 authorizing a three-quarter cent sales tax to pay for law enforcement and other services.
- **NIJ:** National Institute of Justice; the research, development and evaluation agency of the U.S. Department of Justice.
- **Proposition 69:** State proposition passed in 2004 that allows for the collection of DNA samples from all felons and persons arrested for certain crimes.
- **Rand Corporation:** Nonprofit institution that helps improve policy and decision making through research and analysis.
- **Rapid DNA:** The fully automated process of developing a DNA profile from a reference sample cheek swab in less than two hours.
- **RapidHIT ID System:** Automated system that generates lab-quality forensic DNA profiles in less than 90 minutes.
- **SB 813:** State legislation approved in 2016 that eliminates the ten-year statute of limitations for sexual assaults and allows the prosecution of such crimes at any time.
- **Statute of Limitations:** Laws that set a maximum time after a crime for legal proceedings to be initiated.
- **STRmix:** Short tandem repeat technology; a forensic software used to aid in the analysis and interpretation of DNA mixtures.
- **US DOJ:** United States Department of Justice

## Background

In April of 2018, Sacramento Police arrested Joseph James DeAngelo, 72, as a suspect in the notorious “Golden State Killer” criminal investigation. Investigators believe DeAngelo to be the serial killer responsible for committing at least 13 homicides and more than 50 rapes in California from 1974 to 1986. The arrest was made after investigators found DNA matches to DeAngelo’s third cousins through GEDmatch.com, a public genealogy website. This historic breakthrough in criminal investigatory techniques has fueled an ongoing fascination with high-profile, unsolved crimes by both the media and the general public. Such intense interest has only been enhanced by numerous subsequent arrests made in other previously unsolved homicide and sexual assault cases throughout the United States.

Commonly referred to as “cold cases,” these investigations typically refer to homicide or sexual assault cases that have never been solved, and for which there is no current active investigation or leads to pursue. Cases involving “missing persons with suspicious circumstances” are also commonly categorized as “cold cases” based upon the possibility of a serious felony or homicide having been committed.

Criminologists estimate that at least 200,000 homicides have gone unsolved in America since the 1960's. The national "clearance rate" for homicide today is approximately 64%, which translates to about a one in three chance that police won't identify a murderer. Estimates for unsolved homicides in California exceed 33,000 between 1980 and 2008. The California Attorney General's Office does not currently keep a list of unsolved or cold case homicides, thus leaving it up to individual police departments to track such cases themselves.

### **Reason for Investigation**

As a result of recent media coverage and public interest in cold case investigations, the Grand Jury decided to investigate the various municipal and county law enforcement agencies throughout San Joaquin County to determine the following:

- The current number of cold cases for homicides, sexual assaults, and missing persons with suspicious circumstances
- The sufficiency of staffing and funding to fully investigate all such cold cases
- The current process and procedures for cold case investigations
- The current effectiveness in solving and closing cold case investigations

### **Method of Investigation**

The following outlines the approach used in examining the current status of cold case investigations throughout San Joaquin County:

#### **Materials Reviewed**

- Online research pertaining to cold case investigations, both nationally and locally
- Municipal and county law enforcement agency websites in San Joaquin County
- Transcripts and notes from Grand Jury interviews of administrative and investigative personnel of various law enforcement agencies throughout San Joaquin County
- Cold case survey results from various law enforcement agencies throughout San Joaquin County
- Proposed Budget Reports from various law enforcement agencies throughout San Joaquin County
- Stockton Police Department Strategic Plan, 2017-2019
- Dr. Anthony Braga Report to the Stockton Police Department, 2006
- California Department of Justice website
- National Institute of Justice website
- Legislative Acts pertaining to DNA analysis, sexual assault kits, and statutes of limitations

## Interviews Conducted

- Administrative personnel from various law enforcement agencies throughout San Joaquin County
- Investigative personnel from various law enforcement agencies throughout San Joaquin County

## Site Visited

- California Department of Justice Central Valley Regional Laboratory in Ripon

## Discussions and Findings

### 1.0 Defining “Cold Cases” in San Joaquin County

No universal definition of “cold case” currently exists. This is due in part to the fact that there is no universally accepted metric for when a case becomes “cold.” The National Institute of Justice (NIJ) defines a cold case as “any case whose probative investigative leads have been exhausted.” The definition of a cold case varies between law enforcement agencies. Such definitions have often been established by past practice, as opposed to by written policy.

The Grand Jury reviewed “cold case” definitions being utilized by numerous law enforcement agencies and determined that the following elements are those most commonly included in a cold case definition, whether by written policy or past practice:

- *Case status* – all known leads exhausted, statute of limitations not expired
- *Type of crime* – usually homicide, sometimes missing persons or sexual assault
- *Age of case* – may include a specific timeframe, but often nonspecific

### San Joaquin County

Table 1 below was developed through interviews and surveys of various administrative and investigative staff from the municipal and county law enforcement agencies throughout San Joaquin County. Table 1 provides specific detail regarding whether the law enforcement agency currently has a cold case definition, whether that definition is from written policy or past practice, which crime categories are included in that definition, whether there is any time element involved, and the case status pertaining to active leads.

**Table 1. Survey Responses on Cold Case Definition**

Facts Developed	DA	Escalon	Lathrop*	Lodi	Manteca	Ripon	Sheriff	Stockton	Tracy
Agency has a cold case definition	Y	Y	NA	N	Y	Y	Y	N	Y
Definition by written policy	N	N	NA	N	N	N	N	N	N
Definition by past practice	Y	Y	NA	N	Y	Y	Y	N	Y
Definition includes homicide	Y	Y	NA	NA	Y	Y	Y	NA	Y
Definition includes missing persons with suspicious circumstances	N	Y	NA	NA	N	Y	Y	NA	Y
Definition includes sexual assault	Y	Y	NA	NA	N	Y	N	NA	Y
Definition has specific time element	N	>5yrs	NA	NA	N	N	>5yrs	NA	N
Definition includes no active leads	Y	Y	NA	NA	Y	Y	Y	NA	Y

\* Contracts with Sheriff Department for police services.

Y – Yes    N – No    NA – Not available    > – Greater than

This investigation revealed that there are varying definitions, and even lack of definition, for “cold case” throughout San Joaquin County. No law enforcement agency in the County has a written policy defining “cold cases.” Statements obtained from interviews and surveys of various law enforcement agencies in San Joaquin County confirmed the detrimental impact of not having a clear cold case definition by written policy. For example, one agency reported that they could not state how many cold cases they had because they “don’t have a well-defined ‘cold case’ policy.” The Grand Jury also heard multiple reports of staff confusion pertaining to how and when an unsolved case becomes a “cold case.”

## Finding

**F1.0** There is inconsistency and confusion regarding what defines a “cold case” amongst the law enforcement agencies in San Joaquin County.

## 2.0 Counting Cold Cases in San Joaquin County

Obtaining an accurate count of the current number of cold case homicides, missing persons, and sexual assaults in San Joaquin County is problematic, largely due to the overall lack of clarity and consistency in defining “cold cases.” Statements obtained through interviews and surveys of law enforcement agencies in San Joaquin County confirmed the difficulty and confusion in both obtaining and maintaining accurate number counts of cold cases. For example, one agency reported they have no idea how many new cold cases they receive. In addition, the lack of a digitized system for tracking older cases has resulted in some cold cases not being counted. The Grand Jury learned that the lack of accurate numbers in counting and tracking cold cases in San Joaquin County is a contributing factor to the overall lack of priority for staffing, funding, and investigating cold cases.

Table 2 below shows cold case statistics that were obtained through interviews, surveys, and budget requests from the various law enforcement agencies in San Joaquin County.

**Table 2. Cold Case Statistics from San Joaquin County**

Type of Crime	DA	Escalon	Lathrop*	Lodi	Manteca	Ripon	Sheriff	Stockton	Tracy
Homicide	572 <sup>1</sup>	0	NA	NA	4	0	206	>320 <sup>2</sup>	3
Missing persons with suspicious circumstances	NA	0	NA	NA	NA	0	82	3 <sup>3</sup>	1
Sexual assault	>200 <sup>1</sup>	2	NA	NA	NA	0	NA	NA	0
Attempted murder of a Police Officer	NA	1	NA	NA	NA	NA	NA	NA	NA
Homicide with an unidentified victim	NA	0	NA	NA	0	0	12	0	0

\* Contracts with Sheriff Department for police services

1) District Attorney’s numbers are estimates for the entire county

2) Stockton estimate from 2015. This number has increased by an unknown amount since then.

3) There are an estimated 56 additional persons missing for more than ten years that are not currently classified as cold cases but remain open files with the Missing Persons Unit of the Stockton Police Department.

It should be emphasized that the accuracy of the statistics provided for each crime category in the Table 2 are impacted by several important variables, including:

- Homicide – lack of digitized system for tracking older cases resulting in estimates that do not include every unsolved case from decades past
- Missing Persons – not always considered a crime; not always considered a cold case
- Sexual Assault – not always considered a cold case; the recent elimination of the ten-year statute of limitations on sexual assault cases through SB 813 should impact this metric and bring needed focus to unsolved sexual assault cases

## Findings

**F2.0** There are more than 500 cold case homicides in San Joaquin County, including 12 homicide victims whose remains have never been positively identified. The exact number of cold case homicides is unknown due to the lack of a consistent written definition for “cold case” and the lack of a digitized tracking system.

**F2.1** The lack of accurate numbers in counting and tracking cold cases in San Joaquin County is a contributing factor to the overall lack of priority for staffing, funding, and investigating cold cases.

## 3.0 Increasing Numbers of Cold Cases in San Joaquin County

### Violent Crime in San Joaquin County

Statistics concerning the number of homicides and forcible rapes in San Joaquin County during the past decade show significant fluctuations. Crime statistics in San Joaquin County are most impacted by the amount of crime within the City of Stockton. Table 3 below shows the number of homicides and rapes in both Stockton and the rest of San Joaquin County from 2010 through 2015.

**Table 3. Homicide and Rape Statistics in San Joaquin County**

Crime	Location	2010	2011	2012	2013	2014	2015	Total
Homicide	Stockton	49	58	71	32	49	49	308
	Rest of County	6	6	6	1	8	10	37
	Total	55	64	77	33	57	59	345
Rape	Stockton	107	90	90	91	134	135	647
	Rest of County	37	28	34	24	25	45	193
	Total	144	118	124	115	159	180	840



## **Homicide Clearance Rates**

The national “clearance rate” for homicide was 64.1% as of 2015. Fifty years ago, it was more than 90%. “Clearance rate” is the term used by law enforcement to describe cases that end in arrest, or when a suspect has been identified but cannot be arrested due to death or other circumstances. Research identifies the following key contributing factors to the substantial increase in unsolved homicides in the United States:

- Stranger-on-stranger homicide
- Increased use of firearms in homicides
- Increased involvement of gangs or drugs
- Witness fear of retaliation
- Witness distrust of law enforcement

The nature of violent crime in America has changed over the decades. In the early 1960’s, the vast majority of homicide cases involved individuals who knew one another. By 1992, 53% of all murders occurred between strangers.

The FBI collects crime clearance statistics but doesn’t provide numbers by jurisdiction. That makes it difficult to assess the clearance rates of local law enforcement agencies. Table 3 shows that the number of homicides throughout San Joaquin County from 2010 through 2015 is 345. Assuming the national average clearance rate of 64% is applied, that leaves 124 unsolved homicides for that same period.

The Stockton Police Chief recently stated that 70% of the city’s homicides in 2018 were closed, which is a higher number than in previous years. While this improvement is commendable, it still leaves approximately ten of Stockton’s 33 homicides in 2018 unsolved.

## **Losing Ground**

The reality in both America and in San Joaquin County is that the cumulative number of unsolved homicides is increasing each year. The primary factor in this equation is the decreased clearance rate for solving homicides. However, the lack of effective cold case investigations is also a contributing factor.

The Grand Jury found that cold case homicides in San Joaquin County are rarely solved or closed. Based upon interview and survey responses, as well as online research, the following is a complete listing of the known cold case homicide closures for the law enforcement agencies in San Joaquin County during the past five years:

- Stockton Police Department – two cases closed (both suspects deceased)
- Tracy Police Department – one case closed (suspect deceased)

In addition, there have been no known arrests or prosecutions involving cold case investigations in San Joaquin County during the past five years.

Each of the law enforcement personnel interviewed during this investigation confirmed that the cumulative number of cold case homicides is increasing each year. The San Joaquin County District Attorney's Office recently reported that their office and other law enforcement agencies continue to fall further behind each year on cold case homicide investigations.

## **Findings**

**F3.0** The total number of cold case homicides in San Joaquin County is increasing each year due primarily to the decreased clearance rate for solving homicides.

**F3.1** Cold case homicide investigations in San Joaquin County rarely result in case closure, arrest or prosecution. This is a contributing factor to the increasing number of cold case homicides in San Joaquin County.

**F3.2** Due to the current inconsistencies in both defining and counting cold cases involving missing persons with suspicious circumstances, and sexual assaults, there is insufficient information to clearly determine the extent to which the number of those unsolved cases may be increasing.

## **4.0 Staffing Cold Case Investigations in San Joaquin County**

### **A Universal Challenge**

Any legitimate discussion concerning law enforcement staffing must begin with acknowledging what has become a universal challenge for police agencies: hiring and retaining qualified officers. This problem has impacted the various law enforcement agencies in San Joaquin County, most notably the two largest agencies: the Stockton Police Department and the San Joaquin County Sheriff's Department.

Reduced to only 331 sworn officers in 2013, the Stockton Police Department was greatly aided through the passage of Measure A by voters that same year. This three-quarter cent sales tax provided funding for law enforcement. The result was a stated goal to increase the Stockton Police force to 485 officers by June of 2017. Despite continued challenges in both hiring and retaining qualified officers, the number of uniformed Stockton police officers totaled 466 as of March 2019. The Stockton Police Chief indicated it was hard to reach the budgeted maximum of 485 officers due to retirements, attrition and staff leaving for other jurisdictions.

The San Joaquin County Sheriff's Office has also faced the same continual challenge in both hiring and retaining qualified sheriff's deputies. The newly elected Sheriff recently confirmed both the shortage of sworn officers and the difficulty of finding qualified candidates to fill vacant positions.

Even the smaller law enforcement agencies within San Joaquin County reported that their main challenge in filling vacant positions is the inability to get qualified applicants through the required background investigation.

### **A Lesser Priority**

Cold cases are typically some of the most difficult and complex cases to work. They require seasoned investigators and dedicated staff that are focused solely on cold cases as their first priority. Unfortunately, that is rarely the reality in law enforcement. A national cold case survey in 2012 found that only ten percent of responding agencies had dedicated cold case investigators.

This investigation revealed that there are currently only three individuals who are specifically assigned to investigate cold cases in San Joaquin County. None of these individuals is currently working on cold case investigations full-time. The current staffing of cold case investigators in San Joaquin County is as follows:

- Stockton Police Department – one retired detective working part-time (16-20 hours/week; maximum 960 hours/year)
- San Joaquin County Sheriff's Department – one full-time sergeant working less than 25% of the time on cold case investigations
- San Joaquin County District Attorney's Office – one full-time investigator working approximately 20%-30% of the time on cold case investigations

The present level of cold case staffing in the largest law enforcement agencies in this county cannot be expected to effectively investigate and solve cold cases. In fact, it is evident that cold case investigative work is often the lesser priority in their work assignments. Statements obtained through interviews and surveys of various law enforcement personnel confirmed both the frustration in juggling competing priorities, and the futility in working cold case assignments alone. The Grand Jury learned that there are a significant number of cold case homicides with the Stockton Police Department and San Joaquin County Sheriff's Department that have not been reviewed for many years due to insufficient staffing and lack of prioritization.

### **Assessing Options**

The major law enforcement agencies in San Joaquin County need additional dedicated and experienced investigators for cold cases. Possible options for meeting this critical staffing need include the following:

- Transfer experienced staff from other assignments
- Hire additional qualified retirees (limited to part-time)
- Seek qualified volunteers

Interviews with administrative and investigative staff revealed that the Stockton Police Department needs at least three more full-time detectives to effectively manage and investigate the current

backlog of cold cases. The San Joaquin County Sheriff's Department has consistently made unsuccessful budget requests for additional cold case staffing, requesting from two to four additional full-time deputies. The San Joaquin County District Attorney's Office also made an unsuccessful budget request to add a Cold Case Investigator and an Investigative Assistant for 2018-2019.

Staffing a successful cold case investigative team may require utilizing all available options, especially considering budgetary restrictions and pension/benefit costs.

Casting a vision and building momentum through collaboration and successful investigations can generate enthusiasm that may appeal to retired detectives. As an example, the City of Walnut Creek Police Department successfully solved a cold case in 2011 and was energized to the point of "pushing for a volunteer squad, staffed by retired detectives, to update reports and apply new forensic analysis."

## **Findings**

**F4.0** There is insufficient staffing for cold case investigations in San Joaquin County, primarily within the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office.

**F4.1** There are a significant number of cold case homicides with the Stockton Police Department and the San Joaquin County Sheriff's Department that have not been reviewed in many years due to insufficient staffing and lack of prioritization.

**F4.2** Law enforcement agencies in San Joaquin County continue to be challenged in hiring and retaining enough qualified officers to fill budgeted positions. This has been a contributing factor to insufficient staffing of cold case investigations.

**F4.3** Providing experienced staffing for cold case investigations may require transferring staff from other assignments, hiring additional qualified retirees, or seeking qualified volunteers.

## **5.0 Funding Cold Case Investigations in San Joaquin County**

### **Overview**

A 2012 national cold case study by the Rand Corporation found that 56% of cold case investigations were funded through grants or supplemental agency funds. The same study found that only 20% of cold case investigations were being funded through established line items in the agency's budget. There are numerous factors contributing to the funding deficit for cold case investigations in America. Economic crises, critical humanitarian and justice issues, and unfunded pension liabilities are but a few of the major elements impacting today's budget priorities. In addition, the difficulty in quantifying a return on investment with cold case funding relative to active police investigations is another obstacle when competing for limited funds.

### **San Joaquin County**

The Grand Jury found that funding for cold case investigative work has been insufficient for the law enforcement agencies in San Joaquin County primarily due to financial limitations and lack of priority. The interviews and surveys of law enforcement personnel consistently revealed a desire to accomplish more regarding cold case investigations. However, funding requests for additional cold case staffing, training, and technology have been routinely denied. This has been especially true for the three largest law enforcement agencies in San Joaquin County: the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office. For example, the Sheriff's Department has unsuccessfully requested additional staffing for cold case investigations every year since 2011.

Responses from interviews and surveys consistently indicated the need for additional cold case staffing and training as the greatest priorities. Also mentioned were needed funding for technology improvements and for utilizing private laboratories to do additional testing of DNA evidence.

### **Funding Alternatives**

Grant funding for cold case investigations has periodically been available through the National Institute of Justice, an agency of the United States Department of Justice (US DOJ). The Grand Jury learned that each of the three largest law enforcement agencies in San Joaquin County had attempted unsuccessfully to obtain such grants on one or more occasions in recent years. There was also a consensus amongst administrative staff that receiving grant money is helpful, but not sustainable to fund staffing year after year. However, research did reveal that the Sacramento County District Attorney's Office, Laboratory of Forensic Services, did successfully obtain a grant of \$336,293 in 2017 through the NIJ "DNA Capacity Enhancement and Backlog Reduction Program."

Another source of funding assistance might be the funds deposited annually into County DNA Identification Fund 20737 as a result of Proposition 69. The statute does not stipulate how the funds are to be disbursed at the local level. Currently, a Proposition 69 oversight committee meets

periodically to approve disbursement of collected funds for reimbursement of expenses incurred for DNA collection. The County portion of funds in 2017 was \$111,381. Such funds could possibly be used in a creative way to enhance DNA analysis and assist criminal investigations. One example is the Contra Costa County Sheriff's Office recently spent \$97,000 to purchase a RapidHIT ID System, a revolutionary technology to process DNA analysis in about 90 minutes.

In summary, all available funding options for cold case investigations should be utilized moving forward. Potential cost savings may be achieved by utilizing retired detectives working part-time, without benefits, at approximately one-third of the cost of a full-time, benefited employee.

## **Finding**

**F5.0** There is insufficient funding for cold case investigations in San Joaquin County, primarily for the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office. The lack of sufficient funding is due primarily to financial limitations and lack of priority.

## **6.0 Investigating Cold Cases in San Joaquin County**

### **Preparation**

The following elements were identified through interviews and surveys as being essential to effective preparation for cold case investigations:

- Training specific to cold case investigations
- Organized computer database for cold cases

Cold case investigation is a specialized field that is presently benefiting from both rapid technological advances and emerging investigative techniques. Numerous opportunities exist for cold case and related training through such organizations as the US DOJ, the State of California Department of Justice (CA DOJ), and various other law enforcement institutes, agencies, and associations. The Grand Jury learned that present cold case investigative staff in San Joaquin County have had minimal opportunities to stay current through relevant cold case training events.

It remains commonplace in law enforcement for older cold case files dating back to the early 1990's and before to remain as paper files stored in boxes and binders. This is no different in San Joaquin County. The Grand Jury learned that such case files can range from a dozen pieces of paper to four full binders. Retrieving and reviewing such files is cumbersome and inefficient, though retention of paper files may be desirable for some cases. The lack of an organized computer database inhibits accurate and efficient tracking, evaluation, prioritization, and investigation of cold cases. The San Joaquin County Sheriff's Department acknowledged this challenge in their 2018-2019 Proposed

Budget request, indicating that cold cases prior to 1990 are not digitized, thus requiring any review or evaluation of the case and evidence to be done by hand.

### **Prioritization**

The 2012 Rand Corporation study on cold case investigations listed the following factors as those most influential in the decision to reopen cold cases:

- New witness coming forward
- New DNA technology to test old physical evidence
- New evidence for DNA testing
- Other physical evidence
- New technology to test other physical evidence

The Rand study concluded that *“these responses strongly indicate that physical evidence is the major factor in decisions to reopen cold cases.”*

In their 2018-2019 Proposed Budget Request, the San Joaquin County District Attorney’s Office stated their desire to assist law enforcement agencies throughout the County by reviewing and triaging unsolved homicide cases. Their goal is to identify DNA evidence that has not been previously submitted for testing, and submit that evidence to the California Department of Justice crime labs for analysis. Current staffing levels and priorities prevent this level of assistance from the District Attorney’s Office.

The Grand Jury learned that some investigative staff at law enforcement agencies in San Joaquin County currently have no efficient or effective method of prioritizing which cold cases to investigate. Based upon interview results, the following prioritization methods are those being most utilized at present:

- Contact from family members of cold case victims
- Tips received/new information provided
- Random choice by the investigator
- Directed by supervisor

Many of the current methods being utilized to prioritize cold case investigations in San Joaquin County are inconsistent with the priority of physical evidence as emphasized by the 2012 Rand Corporation study. Neither do many of the current methods for prioritization align with the method of triaging physical evidence proposed by the District Attorney’s Office.

### **DNA Evidence (also see Appendix A)**

The Grand Jury learned through interviews and surveys that there are significant numbers of cold case homicides in San Joaquin County with DNA evidence that could be tested using enhanced DNA technology now available. The exact number of cases with testable DNA evidence is unclear due to

the lack of effective tracking or evaluation methods. However, one estimate received by the Grand Jury indicated the number of such cases to be in the hundreds.

## **Limitations**

Despite incredible advances in using DNA technology to identify persons, there are additional challenges presented to investigators of cold cases in San Joaquin County. The Grand Jury learned from multiple sources that the CA DOJ regional crime labs do excellent work; however, they are limited in the amount of staff time they can devote to evidence testing. This limitation was most apparent when involving cold cases where the chances of successful DNA testing results were less likely. Not only were the chances of approval for testing less likely for many cold cases, but the amount of time to receive a test result was often longer. Due to limited staff resources, the CA DOJ has policies in place that only allow them to analyze a minimal amount of DNA evidence based on their workloads and demands from law enforcement agencies throughout California. It is noteworthy that the Tracy Police Department's recent closure of a cold case homicide resulted from additional DNA testing by a private, nonprofit laboratory that was reportedly utilized due to testing limitations at the CA DOJ crime laboratory.

Another limitation in the investigation of cold case homicides in San Joaquin County is the significant percentage of cases involving street gangs. The Grand Jury learned that the number of cold case homicides involving street gangs is estimated to be as high as 50% in San Joaquin County. The significance of this reality does not pertain to a lesser demand for justice, but rather acknowledges that these cold cases present additional challenges, such as the lack of DNA or other physical evidence for testing, and the lack of available or willing witnesses to testify

## **Findings**

**F6.0** There is a need for additional training specific to cold case investigations for the law enforcement agencies in San Joaquin County.

**F6.1** The lack of organized computer databases for cold cases is impeding the effective evaluation and investigation of cold cases in San Joaquin County.

**F6.2** The methods for prioritization of cold case investigations in San Joaquin County are often ineffective, with insufficient emphasis placed on available physical evidence.

**F6.3** The exact number of cold case homicides in San Joaquin County that have testable DNA evidence is unknown due to the lack of effective tracking and evaluation methods.

**F6.4** There are limitations on the amount of physical evidence that the State of California Department of Justice crime laboratories will process for cold case investigations due to staffing and prioritization.

**F6.5** Cold case homicides involving street gangs often present greater challenges due to the lack of testable DNA evidence and the lack of available or willing witnesses.

## **7.0 Solving Cold Cases in San Joaquin County**

### **Elevation**

Any successful path forward in solving cold cases in San Joaquin County must begin with elevating the priority of staffing and funding such investigations. The focus and priority of law enforcement on today and tomorrow must expand to include the past. By not investigating cold cases or seeking arrests and convictions, criminals are potentially being allowed to commit additional violent crimes.

### **Innovation (also see Appendix B)**

Another key element to future success in solving cold cases in San Joaquin County will be the utilization of advanced technology and emerging techniques, including:

- STRmix DNA interpretive software
- Rapid DNA technology
- Genetic genealogy
- DNA phenotyping

These innovative techniques have assisted in solving cold cases throughout the United States.

### **Collaboration**

A final critical component in the future success of solving cold cases in San Joaquin County will be the level of collaboration between all key members involved in the investigation and prosecution of such cases. This investigation revealed that there is presently a climate of isolation and frustration in attempting to investigate cold cases without the necessary assistance and support. Responses received from surveys and interviews revealed investigative staff want help in many areas, including: discussing case strategy, interviewing witnesses in the field, processing and serving warrants, obtaining legal advice, and testing of physical evidence.

This investigation confirmed the necessity of a cooperative and coordinated relationship between law enforcement agencies and the District Attorney's Office. The 2012 Rand Corporation study on cold case investigations emphasized the importance of cooperation between police and prosecutors in improving both the efficiency and the effectiveness of cold case investigations. The study indicated the benefit of having police consult with prosecutors beginning at case screening, to offer advice on whether the case is likely to produce a conviction and what kinds of evidence will be most compelling in court.

In their 2018-2019 Proposed Budget Request, the San Joaquin County District Attorney's Office expressed a clear desire to assist law enforcement partner agencies throughout the County with cold case investigations. However, the Grand Jury learned that there is presently minimal contact between the District Attorney's Office and cold case investigative staff.

There are many examples from nearby counties where the District Attorney's Office has taken a leadership role in coordinating and facilitating cold case investigations and prosecutions. A few of these counties include:

- Sacramento County – Cold Case Prosecution Unit
- Contra Costa County – Cold Case-Unsolved Homicide Unit
- Alameda County – Unsolved Crimes/DNA Cold Case Unit
- Santa Clara County – Cold Case Unit
- Solano County – Cold Case Unit

The desire for the San Joaquin County District Attorney's Office to form a Cold Case Task Force was a consistent request in both interviews and survey responses from law enforcement agencies throughout the County. Such a Cold Case Task Force is needed to provide a multitude of essential functions in cold case investigations, including:

- Establish a Mission Statement clearly defining "Cold Cases"
- Coordinate training specific to cold case investigations
- Provide legal assistance including case review, warrant processing, and prosecution
- Coordinate with CA DOJ crime laboratories for necessary testing
- Collaborate with other counties and law enforcement agencies for support
- Collaborate regarding advocacy for victim's families and witnesses

As one example of successful collaboration, the Santa Clara County District Attorney's Office joined with county law enforcement agencies to sign a Cold Case Partnership and Cooperation Agreement. The county crime laboratory also joined this partnership and made a commitment to handle DNA in an expedited manner. The District Attorney also asked every county law enforcement agency for access to unsolved homicide and sexual assault cases in order to assist with locating and submitting DNA evidence, interviewing witnesses, and conducting a comprehensive case evaluation.

## **Findings**

**F7.0** The elevation of cold case investigations as a priority is vital to the future success in investigating and solving cold cases in San Joaquin County.

**F7.1** The utilization of innovative technology and emerging techniques is an essential element to the future success of investigating and solving cold cases in San Joaquin County.

**F7.2** The level of collaboration between law enforcement agencies and the District Attorney's Office is a critical component to success in solving and prosecuting cold cases.

**F7.3** There is minimal contact between the District Attorney's Office and cold case investigative staff in San Joaquin County due to lack of staffing and priority.

**F7.4** There is universal support amongst law enforcement agencies in San Joaquin County for the District Attorney's Office to form a Cold Case Task Force to support cold case investigation and prosecution.

## **8.0 Maintaining Contact with Families of Cold Case Victims**

The consequences of unsolved cold cases include victims without justice and families without answers. This painful reality is one driving force behind the proposed Cold Case Accountability Act of 2020. One aspect of this proposed legislation is a requirement for law enforcement agencies to provide regular updates in writing and in person to families of cold case victims.

The Grand Jury learned through interviews and survey responses that there is currently no consistent procedure or practice for law enforcement agencies in San Joaquin County to maintain periodic contact with the family members of cold case victims. Most contacts with victims' families are currently being initiated by family members, and often correspond to the victim's birthday or the anniversary of their death. Many law enforcement personnel refrain from initiating contact with families of cold case victims due to time constraints, the lack of any progress to report, or the potential to provoke emotional trauma. Perhaps a reasonable and sensitive response is that the family should be consulted regarding their desired frequency of contact. Such contacts could be handled by nonsworn personnel in order to minimize the time impact on investigative staff.

Victim Services is a program of the San Joaquin County District Attorney's Office that serves victims and their survivor family members of homicide, sexual assault, and other crimes. As stated on the District Attorney's website, "In California victims of crime have state constitutional standing and rights, guaranteeing that their voices will be heard." For many cold case victims, their voice is still being heard through their surviving family members.

Victims of Violent Crime of San Joaquin County is a nonprofit support group whose members are comprised primarily of surviving family members of unsolved murders. The group has held an annual vigil during the holiday season for the past twenty years. All of the surviving family members who gather at these vigils are ultimately seeking the same things: justice and closure. However, the Chief Executive of Victims of Violent Crime recognizes that in order for survivor family members to experience justice and closure, more cold case detectives are needed in San Joaquin County to investigate their cases.

## **Finding**

**F8.0** There is no consistent procedure or practice for law enforcement agencies in San Joaquin County to maintain periodic contact with the family members of cold case victims.

## **Recommendations**

**R1** Each law enforcement agency in San Joaquin County develop a plan to define, prioritize, and digitally track cold case investigations no later than December 31, 2019. Prioritization will emphasize available physical evidence and utilize emerging DNA testing techniques.

**R2** Each law enforcement agency in San Joaquin County expand their definition of “cold case” to include missing persons with suspicious circumstances, and sexual assault (forcible rape and attempted rape), in addition to homicide no later than December 31, 2019.

**R3** The San Joaquin County Sheriff utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Sheriff’s Detectives dedicated solely to cold case investigations no later than December 31, 2019.

**R4** The San Joaquin District Attorney utilize budget options and staffing reassignments as necessary to provide the equivalent of at least two full-time District Attorney Investigators dedicated solely to cold case investigations no later than December 31, 2019.

**R5** The City of Stockton utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Police Detectives dedicated solely to cold case investigations no later than December 31, 2019.

**R6** The San Joaquin County District Attorney’s Office develop a plan for a Cold Case Task Force to facilitate collaboration in investigating and prosecuting cold cases for all law enforcement agencies in San Joaquin County no later than December 31, 2019.

**R7** The San Joaquin County District Attorney’s Office establish a Cold Case Task Force for all law enforcement agencies in San Joaquin County no later than March 31, 2020.

**R8** Each law enforcement agency in San Joaquin County sign a Partnership and Cooperation Agreement with the newly formed Cold Case Task Force no later than March 31, 2020.

**R9** The newly formed Cold Case Task Force partner with the regional CA-DOJ crime laboratories to facilitate the timely and necessary testing of all DNA evidence for cold case investigations no later than March 31, 2020.

**R10** Each law enforcement agency in San Joaquin County develop a procedure and practice for maintaining periodic contact with family members of cold case victims no later than March 31, 2020.

## **Conclusion**

It has been said that cold cases are rife with challenges but also filled with rewards. However, this Grand Jury investigation revealed that cold case investigations in San Joaquin County have experienced minimal rewards due primarily to the lack of priority in staffing and funding such investigations. The Grand Jury has responded with a number of recommendations to improve the current state of cold case investigations in San Joaquin County.

In the end, investigating cold case homicides, missing persons, and sexual assaults is about doing what is right and just – for the victims, for their survivor family members, and for our community. As the Stockton Police Chief stated, “We think it’s so important that we have somebody assigned to these cases because we have hurting families who have never received closure.”

## **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 90 days of receipt of the report.

The San Joaquin County Board of Supervisors shall respond to all Findings and Recommendations, where applicable.

The Stockton City Council shall respond to all Findings and Recommendations R1, R2, R5, R8, and R10.

The Escalon City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10. The Lodi City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Manteca City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Ripon City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Tracy City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The San Joaquin County Sheriff shall respond to all Findings, where applicable and Recommendations R1, R2, R3, R8 and R10, within 60 days of receipt of the report.

The San Joaquin County District Attorney shall respond to all Findings, where applicable and Recommendations R1, R2, R4, R6, R7, R8, R9 and R10, within 60 days of receipt of the report.

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

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## Appendix A: DNA Evidence

DNA is the fundamental building block for an individual's entire genetic makeup. The DNA in a person's blood is the same as the DNA in their skin cells, saliva, and other biological material. Each person's DNA is unique, with the exception of identical twins. Therefore, DNA evidence collected from a crime scene such as a homicide or sexual assault, can implicate or eliminate a suspect. Old cases that were previously thought unsolvable may contain valuable evidence capable of identifying the perpetrator. DNA can also be used to analyze unidentified remains through comparison with DNA from relatives.

The Combined DNA Index System (CODIS) is a computer network that connects forensic DNA laboratories at the local, state, and national levels. When a DNA profile is developed from crime scene evidence and entered into CODIS, the database software searches thousands of convicted offender DNA profiles to determine a possible match. CODIS also has a missing persons index which contains DNA profiles of unidentified remains, as well as DNA profiles of relatives of those who are missing.

In 2004, California voters approved Proposition 69 to further expand DNA collection to include all persons arrested for a felony. The result has been that California now maintains the largest state DNA database in the country and the third largest in the world.

Although DNA is not the only forensic tool available for the investigation of unsolved cases, advancements in DNA testing and the success of the DNA database system have inspired law enforcement agencies throughout the country to reevaluate cases previously thought unsolvable. DNA testing has even been used to exonerate more than 350 inmates since 1989.

## Appendix B: Innovative Techniques

**STRmix** is a recently developed forensic software that can resolve previously unresolvable mixed DNA profiles. STRmix software combines biological modeling and mathematical processes to achieve results not possible with traditional DNA methods. This new DNA technology was credited for a recent arrest and conviction involving the 2012 rape and homicide of an elderly Stockton woman. The investigation by the Stockton Police Department and the CA DOJ Forensics Services laboratory in Ripon continued until 2016, when new STRmix DNA interpretation software used by the laboratory conclusively identified the suspect's DNA on items from the crime scene. The CA DOJ laboratory had previously been unable to separate DNA mixtures of different people. However, STRmix looks at many more factors in DNA mixtures, allowing a suspect to be identified from a mixture of DNA from different people.

**Rapid DNA technology** has shortened the DNA test time from weeks to about ninety minutes by inserting a swab of DNA into a cartridge and putting that into a machine for analysis. In the past, law enforcement agencies had to send DNA samples to government labs and wait for test results,

which could take days or weeks. A federal bill passed in 2017 allows law enforcement agencies to use rapid DNA technology to perform real-time DNA testing at their booking stations immediately following arrests. These samples are then compared to profiles in CODIS for possible matches. The same technology has also been used to identify victims of the deadly Camp Fire in Butte County. The Contra Costa County Board of Supervisors recently authorized the Contra Costa Sheriff's Department to spend approximately \$97,000 to purchase the RapidHIT ID System to enhance their investigative operations.

**Genetic genealogy** is the innovative method used to identify and arrest the suspected Golden State Killer in 2018. Using an untouched Golden State Killer DNA sample from a Ventura County crime lab, the FBI created a profile to load onto the public genealogy website GEDmatch, a freely accessible ancestry database where people submit DNA to find relatives and determine lineage. A team led by retired Contra Costa County District Attorney Paul Holes and volunteer Genetic Genealogist Barbara Rae-Venter, dug as far back as the suspect's great-great-great grandparents' lineage to make progress. The team created multiple family trees, then narrowed down suspects through physical attributes of the killer gleaned from DNA, as well as information such as where the killer might have lived. After a DNA match with a second cousin, investigators were able to zero in on Joseph DeAngelo as their suspect.

Since the arrest of DeAngelo, many other cold cases have been solved using the same methods. In fact, Rae-Venter later trained the Sacramento County District Attorney investigators who were able to use same method of genetic genealogy and DNA analysis to arrest the NorCal Rapist, a serial rapist believed to have terrorized women in six counties starting in the 1990's. Sacramento County District Attorney Ann Marie Schubert stated that investigators were able to load the suspect's profile to GEDmatch and arrest the suspect ten days later.

There is even optimism that within a few years, most cold cases will be solvable with public data. GEDmatch contains data from more than 1.2 million individuals and is adding 1,000 to 2,000 genetic profiles each day. One geneticist estimates that profiles from three million Americans of European descent could identify 90% of people within this demographic.

Recently, FamilyTreeDNA, another prominent consumer DNA testing company, advised that it has granted the FBI limited access to its nearly two million genetic profiles. The immediate result of this decision is that it more than doubles the amount of genetic data that is already accessible to law enforcement through GEDmatch.

It should be acknowledged, however, that there is some opposition to utilizing genealogical databases to identify offenders. Such criticism is based upon privacy concerns and will no doubt result in future litigation and legislation of this issue.

**DNA phenotyping** is an additional innovative technology that is generating interest for cold case investigations. DNA phenotyping is an attempt to use forensic DNA technology to determine physical traits. It is an evolving science being utilized by such companies as Parabon Nanolabs. Computer technology is used to generate a sketch of a possible subject based solely on DNA found

at the scene of a crime. This is an emerging technique that may eventually provide valuable assistance in cold case investigations or identification of human remains.

# San Joaquin County Grand Jury



**Tracy City Council:**

**Restore the Public Trust**

**2018 - 2019 Case #0418**



## Summary

The City Council of San Joaquin County's second largest city was the target of multiple complaints that warranted the attention of the Grand Jury. Over the past several years, the Tracy City Council has developed a reputation for its inability to work together as a collegial legislative body. The 2017-2018 Grand Jury recommended the Tracy City Council adopt an Ethics Policy that governs the behaviors of their elected officials, by October 31, 2018. However, to date, the City Council has been unable to agree on the content or language of an Ethics Policy. Along with the Council's public discord, a pattern of power politics surfaced in a consistent 3/2 voting bloc that led to the terminations or forced resignations of the City Manager, Assistant City Manager, and the Chief of Police. The unexplained departures of the City's administrative leaders created an unstable work environment at City Hall. Morale was further damaged through the increasing interference of Council members into the City's business operations. This open disregard for the City's Council-Manager form of government further contributed to a difficult work environment for many of the City's talented staff members.

Through its investigation, this Grand Jury identified several opportunities for implementing changes that will ensure a more harmonious and productive City Council, as well as providing additional safeguards for City administrators and staff:

- Council members must agree on an Ethics Policy that will help them work together more effectively and respectfully.
- Individual Council members must stifle their personal animosity toward fellow members and show the public they can work together more civilly.
- Give the Tracy voters more control over Council vacancy appointments.
- The City Manager and City Attorney should be shielded from power politics and shifting alliances by requiring a supermajority vote for their termination.

These measures will build a more effective Tracy City Council and begin to restore the public trust. This will result in stable leadership that will enable the City's capable staff to better meet the needs of this community.

## Glossary

- **City Council, Council, Council members:** For the purpose of this report these terms are interchangeable and generally refer to the entire five-member Tracy City Council, including the Mayor.
- **Council-Manager form of Government:** A form of municipal government in which the city manager functions as the chief executive of the city, overseeing the day-to-day operations of the city, and serving as the chief advisor to the city council.
- **Ethics Policy, Code of Conduct, Code of Ethics and Conduct:** A set of principles used to guide conduct and decision making. For the purposes of this report these terms are interchangeable.

- **ICMA:** International City Managers Association
- **Supermajority:** In the case of the Tracy City Council, at least four out of five.
- **Voting Bloc:** A group that votes together for a common agenda which dominates their voting pattern.

## Background

With a population of 90,889, Tracy is the second largest city in San Joaquin County and the 86<sup>th</sup> largest in the State of California. Tracy’s growth rate since 2010 is 9%. For the purpose of comparison, Stockton’s growth rate for the same time period is 0.8%.<sup>1</sup>

The City’s geographical boundaries lie within the triangle created by interstate highways 580, 205, and 5, prompting the city’s trademarked motto “Think Inside the Triangle.” Tracy’s proximity to the densely populated Bay Area continues to lure families looking for more affordable housing while the availability of land draws companies that fuel continued job growth. In the Mayor’s 2019 State of the City address, it was announced that four new manufacturing employers would bring 1,200 additional jobs to Tracy this year.

The City of Tracy operates under the Council-Manager form of government, as outlined in section 2.08.060 of the Tracy Municipal Code. It designates the five-member City Council as the governing body of the City, vested with the authority to establish policy, adopt new laws, levy taxes, award contracts, and appoint the City Manager and City Attorney. Council members are limited to two four-year terms; the office of Mayor is limited to two two-year terms. The Mayor is the fifth member of the Council and presides over meetings and acts as a figurehead at various city functions. Council members are ultimately responsible to the people for the actions of local government. In the Council-Manager form of municipal government, the Council appoints the City Manager, a professional career administrator, who is responsible for the day-to-day operations of City business and oversees all City staff.

In September 2017, by a 3/2 vote, the Tracy City Council fired its City Manager. The Council then appointed the Fire Chief as the Interim City Manager. Within a few weeks, the Interim City Manager dismissed the Assistant City Manager. This was followed by the controversial forced resignation of the City’s Chief of Police in August 2018.

The 2017-2018 Grand Jury found: *“The lack of an ethics policy in Tracy has resulted in conflict, mistrust, and allegations of misconduct.”* They recommended that Tracy adopt an Ethics Policy to guide the conduct of City Council members and key leadership staff. Specifically, the Grand Jury requested the following: *“By October 31, 2018, the Tracy City Council develop and adopt an ethics policy that governs the behavior of its elected officials, appointed officials, and senior staff.”* To date, the Council has been unable to agree on the language and scope of an Ethics Policy.

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<sup>1</sup> <http://worldpopulationreview.com/us-cities/tracy-ca/>

## **Reason for Investigation**

The Grand Jury received multiple complaints citing misbehavior on the part of Tracy City Council members. Complaints alleged conflicts of interest, persistent violations of the Council-Manager form of government, concerns about a series of unexplained executive staff terminations and forced resignations, abuse of power, and the inability to conduct the public's business in a professional, respectful manner. The number of complaints received, the sweeping scope of allegations, and the ongoing public displays of discord and disrespect amongst Council members, compelled the Grand Jury to move forward with this investigation.

## **Method of Investigation**

### **Materials Reviewed**

- Agendas, Minutes, and Videos of Tracy City Council Meetings
- Applicable California Government Codes
- California League of Cities website
- City of Tracy Municipal Codes
- Executive Staff Employment Contracts
- Executive Staff Performance Reviews
- Executive Staff Separation Agreements
- Fair Political Practice Commission Filings
- Grand Jury Report 2017-2018
- Online Archives: *Tracy Press, Stockton Record, San Jose Mercury News, San Francisco Chronicle*
- Online Video Archives: ABC, NBC, CBS, FOX News
- San Joaquin County Registrar of Voter Records
- Tracy Police Officers Association Facebook Page

### **Interviews Conducted**

The Grand Jury conducted 17 interviews in person and by phone which included:

- Current and former City staff
- Current and former Council members
- Contracted professionals who provided services to the City Council
- Government consultants

### **Site Visited**

- Tracy City Council meetings

## Discussions, Findings, and Recommendations

### 1.0 Ethics Policy

Many cities and counties in California have an Ethics Policy and/or Code of Conduct for their elected officials. These codes provide a set of behavioral expectations that elected officials should follow. They also provide a standard for elected officials to refer to when one of their peers crosses the line. The 2017-2018 San Joaquin County Grand Jury recommended that the Tracy City Council develop and adopt an Ethics Policy by October 31, 2018.

The Tracy City Council meeting on August 21, 2018 was the first occasion in which the 2017-2018 Grand Jury report was discussed. Agenda item seven was intended to: "Introduce An Ordinance Adding Section 2.04.050 To The Tracy Municipal Code Prohibiting Members Of The City Council, Boards And Commissions, City Treasurer And Appointed Employees From Contracting With The City And Appoint An Ad Hoc Subcommittee To Work With The City Attorney's Office To Create A Comprehensive Code Of Conduct For City Council Approval."

At this August meeting, a Council member asked the City Attorney why he was recommending an ad hoc committee to draft the Ethics Policy instead of holding a special session where all five members could work on it together. The City Attorney replied, *"There's no legal impediment. There's simply the divisive nature of the Council as it sits here today and coming up with specific language."* On February 19, 2019, nearly six months after the ad hoc committee was formed, the entire City Council met to discuss a proposed Ethics Policy. At this meeting, the divisive nature of the Council made it clear that a special session would be required to work on the language for a Code of Ethics and Conduct. When the Council met on April 2, 2019 for the special session, only one member had done their homework and submitted proposed changes. Most of that meeting was spent discussing proposed additions not typically included in a Code of Ethics and Conduct. In the end, nothing was accomplished.

The Council eventually referred the Code of Conduct and Ethics back to the ad hoc committee to write a new draft for the April 16, 2019 Council meeting. To date, the Tracy City Council has yet to come close to agreeing on an Ethics Policy.

**Table 1. Timeline for the Development of an Ethics Policy by the Tracy City Council**

Date	Summary
June 2018	Grand Jury releases report #0917 “San Joaquin County Municipality Ethics Policies” recommending the Tracy City Council develop and adopt an Ethics Policy by October 31, 2018.
August 21, 2018	The Council appoints an ad hoc committee to develop an Ethics Policy. The committee is to bring the draft to the Council at the first meeting in October 2018.
September 19, 2018	The Council formally responds to the Grand Jury that they are “ <i>in the process of implementing this recommendation.</i> ” The Council notes they may not meet the deadline, but indicates they are “ <i>committed to enacting a code of ethics ... in 2018.</i> ”
October 31, 2018	Deadline set by the Grand Jury to adopt an Ethics Policy.
November 6, 2018	City Council Election
February 5, 2019	The first meeting since August 21, 2018 in which the draft Ethics Policy was discussed. The Council decided to defer discussions until the February 19 <sup>th</sup> Council meeting.
February 19, 2019	The Council spent a significant amount of time discussing the draft Ethics Policy. Ultimately, they decided that each Council member would send the City Attorney proposed changes to the draft and he would compile a revised draft to be reviewed and approved at a special meeting on April 2.
April 2, 2019	At a special meeting to review the Code of Ethics and Conduct, only one Council member submitted proposed revisions. Multiple versions of a draft Code of Ethics and Conduct were discussed at that meeting. After lengthy debate, the Council failed to reach agreement on the proposed language and closed by agreeing to send their proposed changes to the City Attorney. The intent was for the subcommittee to meet, review the proposed changes, and develop a new draft to be approved at the next Council meeting on April 16.
April 16, 2019	The Code of Ethics and Conduct was not on the Council agenda.

## Findings

**F1.1** The Tracy City Council’s failure to agree on an Ethics Policy is reflective of the Council’s inability to agree on the fundamentals of how to work together as an effective governing body.

**F1.2** The Tracy City Council’s failure to prioritize the establishment of an Ethics Policy conveys a message to Tracy residents that ethical behavior by the City Council is not of paramount importance.

**F1.3** The adoption of an Ethics Policy will provide the Tracy City Council with a tool to hold fellow members accountable for their actions.

## Recommendations

**R1.1** The Tracy City Council create and adopt an Ethics Policy that governs the behavior of its elected officials, appointed officials, and senior staff by October 31, 2019.

**R1.2** The Tracy City Council develop a “Rules of Behavior” document to be distributed to each Council member and posted in the Council Chambers and the closed meeting rooms by October 31, 2019.

## 2.0 City Council Conduct

### Council Tensions

It has become common behavior for Tracy Council members to initiate personal attacks on one another from the dais. By August 2017, the interpersonal strife and bad behaviors deteriorated to the point that the former City Manager hired an outside consultant to facilitate a special retreat for the Council to discuss “how to govern together most effectively; roles and frameworks for effectiveness; and, how to best accomplish the work of the Council.” Proposed topics of the retreat included:

- Benefits from Good Government
- Maintaining Credibility as a Governing Body
- Refresher on the Form of Government
- Strategies for Creating a Credible, Effective Council
- Vehicle for Change
- Opportunity Makers and Obstacle Busters

Followed by the following exercises:

- Conflict Triggers
- Wouldn't it be great if...

The minutes of the retreat reflect that the planned exercises never occurred. In fact, the retreat was cut short due to profane language and insults exchanged by two Council members.

Whether Tracy's citizens attend the Tuesday Council meetings in person, or watch the proceedings from home, or follow the action in the local *Tracy Press* newspaper, they are subjected to the Council members' animosity for one another on a regular basis. A survey of news articles related to Council business in the Tracy Press includes these headlines:

- *Council Tensions Erupt (10/7/17)*
- *Dust up Delays Council Meeting (3/6/18)*
- *Contention over Chief's Dismissal (8/24/18)*
- *Acrimony and Accusations (11/8/18)*

While the verbal sparring between Council members in open meetings may seem remarkable, the gloves truly come off in closed sessions. The Grand Jury heard many examples of yelling, name calling, and outright hostility between Council members in closed sessions.

### **Campaign Tactics**

The 2018 election campaign season in Tracy was a showcase for unethical conduct. Citizens seemed genuinely shocked at a late-hour attack ad mailer that not only tried to impugn the reputations of those who were running for office, but included aspersions against a sitting Council member not in the race. Additionally, two Council candidates complained when their campaign websites were mysteriously re-directed to another candidate's website.

### **Findings**

**F2.1** The petty bickering between Tracy City Council members during Council meetings has diminished their ability to effectively conduct the public's business and has undermined the public's trust in the Council.

**F2.2** The lack of an Ethics Policy restricts the ability of Tracy City Council members to hold one another accountable for violating established ethical standards.

**F2.3** The discord amongst Tracy City Council members is obvious to viewers of Council meetings, although the Council members themselves seemingly fail to recognize this reality.

**F2.4** Unethical conduct during the 2018 election campaign further damaged Council members' ability to work together.

### **Recommendations**

**R2.1** Tracy City Council members publicly agree to set aside their personal differences and conduct the public's business in an efficient and respectful manner, by October 31, 2019.

## **3.0 Council Vacancy Appointment Process**

Following the elections of 2012, 2014, and 2016, vacancies on the Tracy City Council occurred when one Council member was either elected or appointed to another political position. California

Government Code Section 36512 statutorily grants authority to the elected officials to appoint a replacement within 60-days or call for a special election to fill the vacated seat. However, it does not define what type of appointment process should be used. It is left up to the elected officials to determine what works best for their community at the time of the vacancy. In each case, the Tracy Council chose to fill the vacancy through an appointment process, instead of calling a special election. While a special election places the selection in the hands of the voters, the San Joaquin County Registrar of Voters currently estimates that a special election in Tracy would cost \$393,891.

The appointment process utilized to fill vacant Council seats after the 2012 and 2014 elections resulted in contentious debates and a split Council vote of 2/2. Only after facing the possibility of an expensive special election did one of the Council members reluctantly change their vote. In each instance, a 3/2 voting bloc materialized, with the compromising Council member on the short end.

The current appointment process adopted by Council as Resolution 2014-180, and amended by Resolution 2017-001, opens the application field to any eligible Tracy citizen supported by the signatures of at least 20 registered voters. After public interviews of each of the applicants, each of the Council members votes for two applicants (one vote if there are only two applicants). Voting continues as the field is narrowed by the majority of Council votes.

The current appointment process was used after the 2016 election and resulted in less contentiousness. However, another 3/2 voting bloc quickly emerged, followed by the termination of the City Manager. The current process is not responsive to the will of Tracy voters and has contributed to Council alliances, engendering a 3/2 voting bloc based on loyalty to those Council members supportive of the appointee's selection. Furthermore, after serving out their terms, each of the appointed Council members campaigned to retain their Council seat and each did not receive sufficient voter support.

Table 2 summarizes the results for the past four elections. Table 3 shows the timeline for the Tracy City Council.

**Table 2. Tracy City Council Election Results 2012 – 2018**

2018			2016		
Mayor			Mayor		
Name	Votes	Percentage	Name	Votes	Percentage
Robert Rickman*	13,433	52.1%	Robert Rickman*	15,009	55.4%
Nancy Young	12,356	47.9%	Michael Maciel	12,023	44.4%
Council			Council		
Name	Votes	Percentage	Name	Votes	Percentage
Dan Arriola*	10,100	22.9%	Nancy Young*	11,176	26.2%
Veronica Vargas*	8,371	19.0%	Rhodesia Ransom*	10,613	24.9%
Dotty Nygard	8,256	18.7%	Mary Mitracos	8,006	18.8%
Juana Dement	6,952	15.8%	Anne Marie Fuller	6,936	16.3%
Catalina Olvera	5,516	12.5%	Amer Hammudi	5,777	13.6%
Amer Hammudi	4,923	11.2%			
2014			2012		
Mayor			Mayor		
Name	Votes	Percentage	Name	Votes	Percentage
Michael Maciel*	6,977	58.4%	Brent Ives*	19,300	95.00%
Ray Morelos	4,906	41.0%			
Council			Council		
Name	Votes	Percentage	Name	Votes	Percentage
Robert Rickman*	7,639	38.4%	Nancy Young*	9,563	26.90%
Veronica Vargas*	5,473	27.5%	Michael Maciel*	9,046	25.50%
Charles Manne	4,516	22.7%	Ray Morelos	6,355	17.90%
Robert Tanner	2,220	11.1%	Charles Manne	5,698	16.10%
			Roger Birdsall	4,680	13.20%
*Elected					

**Table 3. Tracy City Council Timeline**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Mayor	Brent Ives		Brent Ives		Mike Maciel		Robert Rickman		Robert Rickman	
Council Member	Bob Elliott		Charles Manne*		Veronica Vargas				Veronica Vargas	
Council Member	Steve Abercrombie		Nancy Young				Nancy Young			
Council Member	Mike Maciel		Mike Maciel		Mary Mitracos*		Rhodesia Ransom			
Council Member	Robert Rickman				Robert Rickman		Juana Dement*		Dan Arriola	
	*Appointed									

## Findings

**F3.1** The appointment process used by the Tracy City Council to fill Council vacancies has fostered loyalty, allegiance, and personal obligation by appointed Council members and has resulted in consistent voting blocs and facilitated divisiveness amongst the Council members.

**F3.2** The appointment process used by the Tracy City Council to fill Council vacancies does not take into account the will of the voters and has not been endorsed by Tracy’s electorate.

## Recommendations

**R3.1** The Tracy City Council adopt a resolution for filling Council vacancies that is more responsive to the voice of the voters by appointing the next highest vote-getter from the previous election by December 31, 2019.

## 4.0 Impact of Executive Staff Separations

### City Administrators

In September 2017, Tracy’s highly regarded City Manager was fired by the City Council after a very contentious 3/2 vote. No explanation was given for the surprise termination. The next person in line for the position, the Assistant City Manager, was bypassed and the City’s Fire Chief was appointed to the position of Interim City Manager. Within two weeks, the newly appointed Interim City Manager forced the resignation of the Assistant City Manager, again without explanation.

## **Chief of Police**

In August 2018, Tracy's popular Police Chief was abruptly relieved of duty, and again, no explanation was given. Citizens' outrage boiled over in the form of protests, letters to the local newspaper, and a series of emotional public pleas for transparency and accountability voiced during Council meetings. Public discord was matched by Council dissension with two members expressing their deep concerns for hidden politics at play. Council members sat silent as the Council Chamber overflowed with Tracy citizens and police officers seeking explanations and assurances from their elected officials. The sudden and unexplained departure of the City's Police Chief was noteworthy enough to draw the attention of most regional newspapers, including the *Stockton Record*, *San Jose Mercury News*, and *San Francisco Chronicle*. Major network affiliates ABC, CBS, NBC, and Fox sent field reporters to cover the crowded Council proceedings.

The abrupt departure of the Tracy Police Chief came as a shock to the department's officers and triggered rampant rumors amongst staff and citizens. Many publicly speculated the loss was simply one more casualty of power politics. The Tracy Police Officers Association issued a public statement expressing they were *"extremely disappointed"* in the decision and that the Chief *"had the full support of their membership."*

On August 24, 2018, the *Tracy Press* editorial board entreated the Council to *"End the silence, inform the citizens"*. The same editorial referenced the unexplained departures of the City Manager, Assistant City Manager, and the Director of Parks and Recreation. It noted the continued silence served to spawn uninformed speculation and rumors and ended by pressing the Council *"to conduct the public's business in public."*

## **Counting the Costs**

This series of unexplained leadership departures created significant turmoil for City of Tracy employees. Leadership positions were hastily filled with temporary appointments that included an Interim City Manager, Interim Assistant City Manager, Acting Human Resources Director, Acting Fire Chief, and Interim Chief of Police. Filling these positions proved difficult. The turmoil in City Hall damaged the City's reputation as a desirable employer and made candidates reluctant to apply for open positions. It took the City over 19 months to hire a new City Manager. The Chief of Police continues to be interim until a permanent replacement is hired.

In addition to the human toll, the various separations inflicted significant financial impact on the City. Severance payments to the City Manager, Assistant City Manager, and Police Chief cost the City more than \$400,000. Filling these three openings required hiring an executive search firm, costing about \$30,000 per position. Overall, these three separations resulted in the City of Tracy paying out approximately \$500,000. Added to hard costs, are the less quantifiable costs of lost productivity from shuffling staff, fear of job loss, and general anxiety of a working environment in turmoil.

## **City Attorney**

The essential role and function of the Tracy City Attorney as legal advisor to the City Council has also been negatively affected by the familiar 3/2 controlling majority on the Council. While the City Attorney serves at the pleasure of, and is appointed by, the City Council, it is imperative that the function of the City Attorney not be impaired by fear or intimidation from Council alliances.

## **Findings**

**F4.1** The rapid succession of executive staff terminations and forced resignations created an unstable work environment for the City of Tracy's staff as department leadership was dismantled. The instability created an unnecessarily stressful work environment which was compounded by fear of job loss.

**F4.2** The Tracy City Council's lack of transparency further eroded the public trust and caused many to speculate that power politics was the catalyst for unexplained departures of the City's professional leadership team.

**F4.3** The City of Tracy's reputation as a desirable employer was damaged by the series of unexplained terminations and forced resignations. This unstable environment made recruiting for open positions substantially more difficult.

## **Recommendation**

**R4.1.** The Tracy City Council amend the Tracy City Municipal Code to require a supermajority vote of four (4) members of the City Council to remove the City Manager or City Attorney, by December 31, 2019.

## **5.0 Council Intrusion in City Operations**

Tracy practices a Council-Manager form of government in which the City Manager serves as the Chief Executive Officer for the City's operations and acts as advisor to the Council. Tracy's Municipal Code section 2.08.060 specifies the duties and powers of the City Manager, including: "It shall be the duty of the City Manager and he or she shall have the power to control, order, and give directions to all heads of departments and to subordinate officers and employees of the City through their department heads, to transfer employees from one department to another, and to consolidate or combine offices, positions, departments, or units under his or her direction."

To ensure boundaries of authority, Tracy's Municipal Code section 2.08.080 is explicit in its separation of duties within its Council-Manager form of government: "The Council and its members shall deal with the administrative services only through the City Manager, except for the purpose of

inquiry, and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager.”

The Grand Jury uncovered a sweeping pattern of over-reach by individual Council members during the past two years, including:

- Department heads were contacted by Council members and given directives that violated City policy.
- Staff members received direct requests to perform tasks contrary to established procedures.
- Department heads and staff members were berated in public meetings and accused of “dragging their feet”.

Under the Council-Manager construct, the Council sets the strategic direction of the City and proposes policies to support their objectives. The City Manager directs staff members to research and analyze the impact of the Council’s proposals and then present the impartial results of their analyses. With the City Manager acting as a firewall between Council and staff, studies and reports are based on best practices and data from the field. However, in the absence of a buffer between staff members and the Council, and in a fearful work environment, the objectivity of reports is at risk.

The City of Tracy employs highly-educated, experienced, competent professionals with expertise in public administration, urban planning, economic development, and other job-related fields. Many live in Tracy, volunteer in Tracy, and are raising their families “inside the Triangle.” The stakes are high when their careers depend on pleasing the personal agendas of elected officials. It has become standard operating procedure to “keep your head down” and avoid upsetting the City Council. The Council Chamber has often become an “echo chamber” in which staff recommendations and reports are more apt to reflect the preferences of individual Council members or the Council majority, rather than proven best practices. The “echo chamber” has served to muffle the full measure and benefit of City staff’s professional experience, education, and expertise.

## **Findings**

**F.5.1** The Tracy City Council has failed to follow their policy by intruding into the responsibilities of City staff. This has negatively impacted staff morale and the effective operations of City business.

**F.5.2** Individual Council members have intimidated staff by giving orders that are in direct opposition to departmental procedures.

**F.5.3** The professional recommendations of City of Tracy staff may be tempered by the potential consequences of disapproving Council members due to fear of potential job loss.

## Recommendation

**R5.1** The Tracy City Council develop and implement a written protocol for sanctions or censure of Council members who violate the Tracy Municipal Code by failing to work through the City Manager to conduct City business, by December 31, 2019

## Conclusion

*“Demonstrate by word and action, the highest standard of ethical conduct and integrity in all public, professional, and personal relationships, in order that the member may merit the trust and the respect of all elected and appointed officials.”*  
*ICMA Code of Ethics, Revised June 2018.*

The lack of an approved Ethics Policy, as originally cited by the 2017-2018 Grand Jury, has continued to compound the discord and resultant impaired governance on the part of the City of Tracy elected officials. An electorate cannot fully enjoy the benefits of a well-run city government if basic standards of ethical behavior are not agreed upon and adhered to. When there is dysfunction amongst elected officials, the public is the ultimate victim. Voters who believe they are neither heard, nor acknowledged, become distrustful of the entire electoral process. Apathy ensues, to the detriment of everyone.

The 2018-2019 Grand Jury has detailed numerous findings and recommendations intended to help restore public trust by improving the collegiality and effectiveness of the Tracy City Council, while providing additional safeguards for City administrators and staff.

Ultimately, it is the Tracy electorate who may prove most influential in their ability to affect needed change through the ballot box. An example of such change occurred recently when Tracy voters brought to the Council a new member, one who is less encumbered by the alliances and scars of past Council skirmishes. Coupled with the recent hiring of a capable new City Manager, there is reason for hope, even optimism, in Tracy.

## Recusal

This report was issued by the Grand Jury with the exception of one juror who was appointed to a Tracy advisory commission. Upon appointment, this grand juror recused himself from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

## **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 90 days of receipt of the report.

The Tracy City Council shall respond to all findings and recommendations.

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

# San Joaquin County Grand Jury



## French Camp McKinley Fire District:

### A District in Disarray

2018 - 2019 Case #0518



## Summary

Although the French Camp McKinley Fire District serves a relatively small population of residents, it is also responsible for protecting many of San Joaquin County's critical facilities. The Grand Jury investigated the processing of employee grievances and expanded the investigation into the management of the District and the effectiveness of the Fire District Board of Directors. The Grand Jury found an excessive number of grievances and lawsuits filed against the District, high employee turnover, a lack of policies and procedures, and ineffective Board oversight. Some of the key recommendations include:

- The French Camp McKinley Board of Directors initiate and implement the process for consolidating with another fire district.
- The San Joaquin County Board of Supervisors conduct an independent review to ascertain whether French Camp McKinley Fire District is the most viable option for providing fire protection services for this important jurisdiction.
- Update and follow the District's Policy Manual in order to ensure grievances and employee complaints are appropriately resolved and firefighter's rights are protected.
- The French Camp McKinley Board of Directors adopt and follow the San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts to ensure sound fiscal management.

The magnitude of the issues facing the French Camp McKinley Fire District will require years of dedicated effort to resolve. Considering the historical inadequacy of its Board of Directors, it is unlikely that the District can resolve these issues on its own.

## Glossary

- **Board of Directors or Board:** French Camp McKinley Board of Directors
- **District:** French Camp McKinley Fire District
- **Local Agency Formation Commission (LAFCO):** Regional service planning agency that oversees the establishment, expansion, governance, and dissolution of local government agencies and their municipal service areas to meet current and future community needs
- **Municipal Service Review (MSR):** A comprehensive study to determine the adequacy of governmental services being provided by the local agencies under LAFCO jurisdiction
- **Policy Manual:** French Camp McKinley Fire District Fire Services Manual
- **San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts:** A manual developed by the County Auditor-Controller to aid the Boards of special districts in managing their finances

- **Special District:** An agency of the state for the local performance of specific functions such as fire protection or flood control within limited boundaries. These districts are governed by a Board of Directors

## Background

The French Camp McKinley Fire District was formed in 1946 and serves approximately 16 square miles surrounding French Camp. In September 2015, the community of Mountain House contracted with the District to provide fire protection service. The community of French Camp has a population of 3,700 and Mountain House has a population of 14,000.

The District is responsible for protecting many of the County's critical facilities which are open 24-hours a day, seven days a week. These facilities include:

- San Joaquin County Sheriff's Office
- San Joaquin County Juvenile Justice Center
- San Joaquin General Hospital
- Mary Graham Children's Center
- San Joaquin County Jail and Honor Farm

The institutions listed above employs an estimated 2,000 staff members, and houses 1,600 inmates and patients. Within its jurisdictional boundary, the District serves approximately 21,300 people.

Additionally, Sharpe Army Depot and the Union Pacific Intermodal Facility are within the District's service area. The French Camp Veterans Administration Clinic is scheduled to open in 2022 and will also be served by the District.

French Camp McKinley Fire District is an Independent Special District. As such, the only oversight of the District is provided by a five-member Board of Directors, who are elected by French Camp residents and serve staggered four-year terms. Three directors have been associated with the District for more than 25 years.

One of the most important responsibilities of the Board of Directors is to hire and supervise the Fire Chief. The District has had four different Fire Chiefs in the last nine years. The current Fire Chief has been on leave since July 2018. In August 2018, the Board appointed an Interim Fire Chief from outside the District with 27 years of experience.

Staff turnover has also been challenging for the District. The normal staffing level for the District is 25 firefighters. Due to the number of recent resignations, terminations, and firefighters on administrative leave, the current staffing level is 16 firefighters. The District staff includes an Administrative Services Assistant who was recently terminated. The Fire Chief's absence and the

Administrative Services Assistant's termination made it extremely difficult for the Interim Fire Chief to provide the Grand Jury with all of the requested documentation.

In 2016, the District's Fire Chief purchased an off-the-shelf Policy Manual. The Manual has not been customized for the District and has yet to be updated. Although it includes detailed procedures for processing and documenting employee grievances, this investigation discovered that these procedures were not followed, resulting in an unusually high number of investigations and lawsuits.

### **Reason for Investigation**

The 2018-2019 Grand Jury received a complaint alleging the lack of response to employee grievances against the District. Initial research revealed the number of grievances and lawsuits filed against the District seemed excessive. The amount of employee turnover and the lack of policies and procedures raised additional concerns.

### **Method of Investigation**

#### **Materials Reviewed**

- Surveyed all San Joaquin County Fire Districts and Fire Departments
- French Camp McKinley Fire District Policy Manual (2016)
- *LAFCO Municipal Service Review of Rural Fire Protection Districts*, San Joaquin County (October 2011)
- French Camp McKinley Fire District Internal Investigation Reports and lawsuit settlement documents
- French Camp McKinley Fire District Website
- Union Pacific Environmental Impact Report (2012)
- California Government Code 53891(a) Special Districts Financial Report filings
- California Government Code 26909 (a)(1) Special District Audit Requirements
- *San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts* (December 31, 2017)

#### **Interviews Conducted**

- Interim Fire Chief and a former Fire Chief of French Camp McKinley Fire District
- French Camp McKinley Fire District Board Members
- Current and former French Camp McKinley Fire District Firefighters
- San Joaquin County Auditor-Controller and Assistant Auditor-Controller
- California Special Districts Association

## **Site Visited**

- French Camp McKinley Fire District Board meeting

## **Discussions, Findings, and Recommendations**

### **1.0 Procedures, Policies, and Documentation**

#### **Policy Manual**

In 2016, the District purchased a policy manual from Lexipol, a widely used private, for-profit company that produces policy manual templates for public safety agencies. The intent of this type of manual is to provide a formatted foundation for policy guidance, which a district tailors, customizes, amends, and updates to meet its own specific and ongoing needs. The policy manual includes best practices, process descriptions, and the specific methods and standards for how work is performed. The Lexipol manual is the only procedural Manual currently used by the District.

The District has not customized the purchased Policy Manual to meet the needs of the District and no documented updates have occurred since its adoption in February 2016. Section 106.5 of the Manual states that an electronic version will be made available. This would serve two important purposes: 1) all firefighters would have access to the District's policies, and 2) the Manual could be easily updated to reflect new policies or emerging best practices. No electronic version of the Policy Manual exists.

Significant ongoing changes to the California Fire Code require updates to policies and procedures as statutes, case law, and regulations change. Regularly updating the Policy Manual would also communicate clear and concise policy guidance to employees. As the community of French Camp continues to grow and new facilities are constructed, further updates to the Manual will be necessary.

#### **Policies and Procedures**

The French Camp McKinley Policy Manual assigns policy making authority to the District's Board of Directors. The Policy Manual details the responsibilities of the Board as a whole, as well as the basic responsibilities of individual members. Individual board members are required "To be familiar with policies governing the operation of the District" and the Board must "Ensure the District business is conducted in accordance with all applicable laws, statutes, regulations, and codes, etc." The Policy Manual gives the Board important policy oversight functions but does not specify how the Board is to be informed of policy changes.

The Policy Manual does not include procurement policies or procedures for disposing of surplus equipment. The lack of procurement policies has resulted in wasteful spending and mismanagement of equipment.

In December 2017, the County Auditor-Controller developed a reference guide to aid special districts with their financial reporting and conducted a follow-up survey with the districts. The survey queried 102 districts "To what degree has your district developed financial policies and procedures?" The District responded that it was in the process of developing policies for purchasing and spending limits. Although the Board has been aware of the District's financial policy deficiencies for quite some time, they have taken no action.

The District Policy Manual contains no policies related to testing for promotion. Testing policies would provide a transparent process for merit-based, competitive promotions. Comprehensive testing ensures that firefighters have the critical skills necessary to effectively respond to any number of incidents affecting public safety.

### Comparison Survey

A survey of fire departments and fire districts in the County revealed that all respondents have procedures in place to periodically update their policy manuals. Furthermore, all but one of the districts has a written purchasing policy. French Camp McKinley was among the districts/departments that did not respond to the survey.

**Table 3. Survey Results from Responding Fire Districts/Departments**

District	Policy Manual Update Schedule	Written Grievance Policy	Written Purchasing policy
Woodbridge	As needed	Yes	Yes
Montezuma	Approximately three times per year	Yes	No
Lathrop	Annual review, update as needed	Yes	Yes
Ripon	Ongoing	Yes	Yes
Escalon	Currently processing new policy	Yes	Yes
Mokelumne	Annual review, update as needed	Yes	Yes
Lodi	As needed	Yes	Yes
Stockton	As needed	Yes	Yes

## **Findings**

- F1.1** The District's Policy Manual requires significant customization in order to adequately meet the needs of the District.
- F1.2** The District does not review and regularly update the Policy Manual, placing the District at risk for financial liability.
- F1.3** The lack of access to an electronic Policy Manual makes it more difficult for staff and Board members to receive, review, and implement policy updates.
- F1.4** Not having procurement policies and procedures for disposing of surplus equipment, the District risks excess spending without accountability, and financial loss when the sale of surplus is not maximized.
- F1.5** Not requiring the Board to approve policy updates leaves them without the ability to provide appropriate policy oversight for the District.
- F1.6** Without clearly defined testing procedures, firefighters are deprived of the opportunity for promotions based upon their training, experience, and qualifications.
- F1.7** Public safety may be compromised when department promotions are not based on the results of objective testing procedures.

## **Recommendations**

- R1.1** The French Camp McKinley Board of Directors customize and approve its Policy Manual to reflect the needs of the District by December 31, 2019.
- R1.2** The French Camp McKinley Board of Directors develop and follow a written policy to systematically review and update their Policy Manual on a regular schedule by December 31, 2019.
- R1.3** The French Camp McKinley Board of Directors post its updated Policy Manual and all updates electronically by December 31, 2019.
- R1.4** The French Camp McKinley Board of Directors develop policies for purchasing and disposing of equipment by December 31, 2019.
- R1.5** The French Camp McKinley Board of Directors develop policies for testing and promotions that maintain the integrity of test scores by December 31, 2019.

## **2.0 Personnel Issues**

### **Toxic Work Environment**

This investigation revealed a significant number of dysfunctional relationships among the firefighters within the District. The Grand Jury found many instances of disrespectful treatment between firefighters and their peers, as well as between firefighters and their supervisors. The Grand Jury also found that supervisors retaliated against firefighters for filing grievances.

### **Employee Grievances**

The District's Policy Manual defines an employee grievance process. The District's manual states that oral or written grievances will be:

- Promptly documented
- Handled quickly and fairly
- Resolved in a reasonable period of time, generally within seven days

The Grand Jury found that the District never followed the steps outlined in this policy. Currently, when an employee files a grievance with the Fire Chief, the Chief conducts his own internal investigation. Often the complainant does not receive a response. Some employees who filed a grievance experienced retaliation by their supervisors. The District failed to follow policies designed to prevent retaliation against grievance filers and to ensure confidentiality.

Another requirement of the grievance process is that an annual audit be conducted with results documented in a confidential memorandum to the Fire Chief. However, the current Policy Manual does not require the grievance memorandum to be presented to the Board of Directors. An annual grievance audit can provide the Fire Chief and Board with insight into underlying personnel issues within the District. The grievance audit can also identify policy, procedure, or training changes that may be necessary. The Board of Directors was unaware that an annual grievance audit was required and has never received a grievance audit memorandum.

The Grand Jury could not substantiate the actual number of grievances filed by employees since 2013, as the District was unable to provide complete documentation. Board members were unsure of the number of grievances filed over the last five years; one estimated between 15 and 20, while another estimated 2 or 3.

### **Personnel Investigations**

The toxic work environment in the District has been highlighted in multiple internal investigations. The District has utilized the services of external investigators several times to investigate personnel issues. A summary of those findings include:

- The District had a very high possibility of “severe litigation” due to the action of individuals employed by the District and the inaction of Board members in resolving employee issues.
- Inadequate recordkeeping by the District that could be in violation of the terms of a prior lawsuit settlement.
- A Battalion Chief’s behaviors warranted a serious written reprimand and the recommended disciplinary action was not implemented.

The Grand Jury found no evidence that the Board or the Fire Chief took any action in response to these reports. Some Board members claimed they were unaware of these reports.

The Grand Jury found that there were irregularities in documentation and manipulation of test scores for promotion. Firefighters with lower test scores were promoted into supervisory positions. This type of behavior is not only unethical but also has a negative impact on firefighter morale.

### Lawsuits

Over the past three years, the French Camp McKinley Fire District has settled at least three employee lawsuits because their grievances were not managed according to the District policies. The total cost to settle these lawsuits was over \$400,000. While some of the total cost was covered by insurance, the unavailability of detailed financial records prevented the Grand Jury from determining the exact cost of those lawsuits. Table 2 below lists legal costs for the last four years taken from the District’s budget. Legal fees include costs to settle lawsuits not covered by the District’s insurance.

Currently there are several additional lawsuits pending against the District.

**Table 4. French Camp McKinley District Legal Fees for the Past Four Years**

Fiscal Year	Budgeted legal fees	Legal fees paid	FY Total Budget
2015-2016	\$16,000	\$15,387	\$2,423,010
2016-2017	\$96,100	\$99,681	\$2,983,057
2017-2018	\$173,617	\$169,265	\$3,010,200
2018-2019	\$40,000	\$48,464*	\$2,825,874

\*as of February 2019

Table 3 below compares the number of grievances and investigations, and the amount of money spent settling lawsuits by other fire districts/departments in the County from 2013-2018.

**Table 5. Survey Results from Fire Districts/Departments in San Joaquin County for the Years 2013-2018.**

District	Budget (Millions)	Number of Firefighters	Grievances	Investigations	Lawsuit settlements
French Camp*	\$2.8	16	>12	>5	>\$400,000
Woodbridge	\$3.4	27	3	2	0
Montezuma	\$1.31	11FT,15Res	1	3	0
Lathrop	\$9.5	33FT,25Res	1	3	0
Ripon	\$2.77	12FT,18Res	0	0	0
Escalon	\$1.22	7FT/17Res	0	2	0
Mokelumne	\$1.14	10FT/15PT	0	1	0
Lodi	\$12	55FT/4Res	8	0	0
Stockton	\$55.6	179	14	17	0

\*Best estimates based on information available to the Grand Jury (FT: full time, PT: part time, Res: reserve, >: more than)

## Findings

**F 2.1** Public safety may be put at risk when testing procedures allow less qualified candidates to be promoted into positions that require them to make critical decisions based on qualifications, training, and experience.

**F 2.2** By not following their grievance procedures, the District’s Fire Chief and Board left their employees without recourse to resolve problems other than litigation.

**F 2.3** The District’s leadership failed to address grievances and complaints of a toxic work environment, requiring the District to settle three employment-related lawsuits totaling over \$400,000.

**F 2.4** The District’s failure to conduct an annual grievance audit may have resulted in unnecessary financial liability.

## Recommendations

**R2.1** The French Camp McKinley Board of Directors develop a clear and concise grievance policy and form by December 31, 2019.

**R2.2** The French Camp McKinley Board of Directors revise the District Policy Manual to require that an annual grievance audit be sent to the Board of Directors no later than February each calendar year by March 1, 2020.

**R2.3** By December 31, 2019, the French Camp McKinley Board of Directors develop a policy that requires the Board receive a copy of all internal investigative reports within 10 days of completion.

## 3.0 Board Oversight

### Roles and Responsibilities

Special Districts in California are local government agencies that provide essential services to millions of residents. Each District provides a specific type of service. The Fire Protection District Law of 1987 is the statutory authority for fire protection districts. Some of the provisions of the law include:

- Every district shall be governed by a legislative body known as a board of directors.
- Claims against a district shall be audited, allowed, and paid by order of the district board.

French Camp McKinley Fire District is governed by a five-member Board of Directors whose primary responsibilities include providing financial oversight and formulating and overseeing strategic policy direction. The District Policy Manual lists 15 responsibilities of Board members including:

- Developing a list of qualifications, job description, and evaluation process for the Fire Chief
- Hiring and supervising the Fire Chief
- Developing goals and measurable objectives for the District and the Fire Chief
- Monitoring progress towards reaching established goals
- Developing policies which ensure that District business is conducted in accordance with all applicable laws, statutes, regulations, and codes

The Grand Jury found that some members of the Board of Directors do not fully understand their roles and responsibilities as outlined in the District Policy Manual.

### Evaluating the Fire Chief

Including the current Interim Fire Chief, the District has had four Fire Chiefs in the past nine years. The Board has failed to set goals and expectations or provide feedback for the Fire Chief. Some

Board members said that in the past, they took the word of the Fire Chief that all was well within the District, and admitted they had no objectives by which to measure performance.

### **Inadequate Financial Reporting**

California Government Code section 53891(a) requires that special districts furnish the State Controller with a report of all financial transactions that took place during the prior fiscal year. These reports are to be filed within seven months after the close of each fiscal year. California Government Code section 26909(a)(1) also requires that an audit for every special district be filed with the County Auditor-Controller annually. The audit must be filed within 12 months of the end of the special district's fiscal year.

While the French Camp McKinley Fire District is current with the State Controller filings, the most recent annual audit filed with the County Auditor-Controller is for fiscal year 2014-2015. Annual audits are critical because they can identify financial improprieties and enable the Board to take appropriate action. Some Board members were unaware that the District is delinquent in filing these audits with the County.

### **Financial Misconduct**

Alleged financial misconduct by District employees was identified by the Interim Fire Chief and confirmed by the County Auditor-Controller's office. The misconduct may cost the District over \$100,000 and went undetected by the Board of Directors Finance Subcommittee.

### **Findings**

**F3.1** Board responsibilities are not clearly understood by all board members, which has contributed to ineffective leadership of French Camp McKinley Fire District.

**F3.2** Without a formalized annual review process, the Board is unable to measure the Fire Chief's performance.

**F3.3** Board members have not held the Fire Chief accountable for failing to communicate critical personnel issues, which has led to significant employee turnover and expensive investigations and lawsuits.

**F3.4** The Board is failing in their fiduciary responsibilities as evidenced by the District's delinquency in filing annual audits, the lack of policies providing financial controls, and inadequate financial oversight.

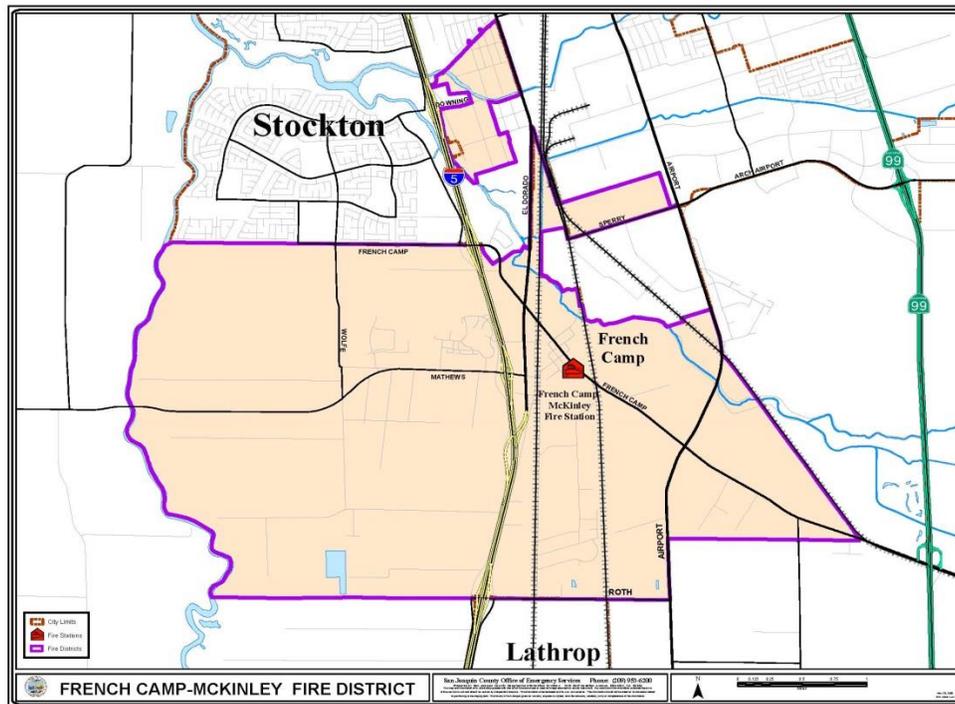
### **Recommendations**

**R3.1** French Camp McKinley Board members perform an annual review of the Fire Chief no later than July of each calendar year, beginning July 2020.

**R3.2** French Camp McKinley Board members file annual audits with the County Auditor for 2015-2016, 2016-2017, and 2017-2018, with copies sent to the Grand Jury by December 31, 2019.

**R3.3** French Camp McKinley Board members adopt and follow the financial guidance provided in the document “*San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts*” by December 31, 2019.

#### 4.0 The Future of French Camp McKinley Fire District



The map illustrating the boundaries of the District shows a small island surrounded by larger fire districts. The map can be deceiving in that it does not reflect the large number of facilities and people under the protection of the District. Furthermore, it does not convey the potential for accidents involving hazardous materials, given the traffic generated by the Union Pacific Intermodal station and the Pilot Flying J Truck Stop. The District provides fire services to the Pilot Flying J facility, while Lathrop Manteca Fire District is mandated to provide hazardous materials cleanup.

## Consolidation

Consolidation of French Camp McKinley Fire District has been a topic of discussion for more than 30 years. The last Municipal Services Review (MSR) for all County fire districts, performed in 2011 by LAFCO, determined the French Camp McKinley Fire District should “explore other organizational structures” in order to achieve greater operational efficiencies. The MSR recommended the District either:

- a. Contract with the City of Stockton, or
- b. Consolidate with a neighboring fire district.

More recently, the *Manteca Bulletin* has called for re-evaluation of the efficiency and viability of smaller independent fire districts. In an article published June 25, 2018, “*Sounding the Alarm for Fire Service Consolidations*,” the editor speculated that citizens would be better served through consolidations among the small surrounding districts. The newspaper revisited the issue on January 22, 2019, in an article titled, “*Time to Rethink Fire Service for Manteca, Lathrop, Ripon & French Camp*.” The *Manteca Bulletin’s* proposals for consolidation are not based on French Camp McKinley’s internal deficiencies, but on economies of scale, population growth patterns, financial viability, and improved levels of fire protection service.

Considering the absence of steady leadership, excessive turnover of personnel, and financial instability, the ability of the District to adequately protect some of the County’s critical assets and facilities that serve its constituents is questionable.

## Findings

**F4.1** Considering the history of failed leadership from French Camp McKinley’s Board of Directors, excessive turnover of the District’s Fire Chiefs, profound personnel problems, lawsuits, and investigations, the ability of French Camp McKinley Fire District to effectively provide fire protection services to its constituents, including the critical County facilities within its jurisdiction is questionable.

**F4.2** The District’s Board has failed to follow-up on repeated recommendations to explore consolidation.

## Recommendations

**R4.1** The Board of Directors of French Camp McKinley Fire District initiate the process, including an analysis, for consolidating with another fire district by October 31, 2019.

**R4.2** The San Joaquin County Board of Supervisors conduct an independent review to ascertain whether French Camp McKinley Fire District is the most viable option for providing fire protection services for critical County facilities by March 31, 2020.

## **Conclusion**

French Camp McKinley Fire District has been struggling on multiple fronts for the last decade and is currently in disarray. Continual turnover of the Fire Chief position and failed oversight by the District's Board of Directors has exposed the District to expensive investigations and litigation. Although the Interim Fire Chief has made progress in his short tenure at the District, the process required to transform the District into a fully functional, efficient Fire District will take many years at best. The constituents of this District, and the hard-working firefighters that serve them, deserve better.

## **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 90 days of receipt of the report.

The French Camp McKinley Fire District Board of Directors shall respond to all Findings and Recommendations except R4.2.

The San Joaquin County Board of Supervisors shall respond to Recommendation R4.2

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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



**Section III**

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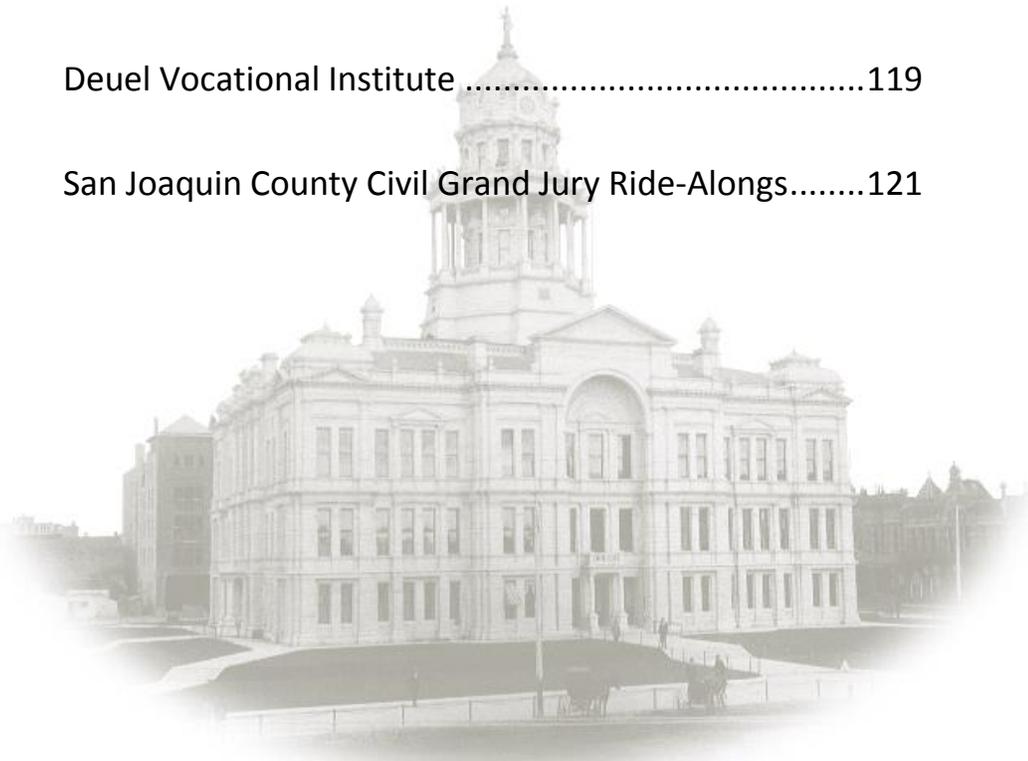
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# San Joaquin County Grand Jury



## Law and Justice

### 2018-2019 San Joaquin County Grand Jury Report

#### Summary

California Penal Code sections 919(a) and 919(b) authorize the Civil Grand Jury to inquire into the condition of jails and public prisons operated by the state, county, and cities within the jurisdiction of San Joaquin County. The Grand Jury is charged with investigating matters pertaining to law enforcement including police, juvenile justice, public protection, and probation issues. The Grand Jury is also responsible for inspecting court detention facilities within San Joaquin County.

This year's Grand Jury focused on how California Assembly Bill 109 (AB 109) has impacted the operation of correctional facilities. AB 109 Prison Realignment transfers responsibility for supervising certain kinds of felony offenders and state prison parolees from state prisons and parole agents to county jails and probation officers. Passed in 2011 and implemented in 2012, AB 109 was created to reduce the state prison population and to reduce recidivism.

This section of the 2018-2019 Civil Grand Jury Final Report provides the observations made by Grand Jury members during tours of correctional facilities within the County. Grand Jury members also participated in public safety ride-a-long programs and their observations are highlighted in the section titled "San Joaquin County Civil Grand Jury Ride-Alongs".

## Facilities Toured

**Members of the 2018-2019 Grand Jury toured the following facilities and recorded their observations:**

- California Health Care Facility
- Deuel Vocational Institution
- Peterson Juvenile Hall
- San Joaquin County Men's Jail and Honor Farm

**The following documents submitted by the San Joaquin County Sheriff were reviewed:**

- Policy 300 – Use of Force
- San Joaquin County Sheriff's Department Custody Division Policies and Procedure Section: 3.2.0, Subject: 3.2.3, Inmate Management, Classification

**The following document submitted by the California Health Care Facility was reviewed:**

- California Department of Corrections and Rehabilitation, fact sheet (July 2018)

**The following documents submitted by Peterson Juvenile Hall were reviewed:**

- San Joaquin County Juvenile Detention Facilities Youth Handbook (revised November 2018)
- San Joaquin County Juvenile Detention Facilities Information Packet

**The following documents submitted by Deuel Vocational Institution (DVI) were reviewed:**

- DVI Grand Jury Presentation Pamphlet (February 2019)
- California Code of Regulations, Title 15. Crime Prevention and Corrections
- Alternative Custody Program Participant Handbook (May 2010)
- Deuel Vocational Institution Reception Center Inmate Orientation Handbook (Revised 2018)
- Getting Out by Going In (GOGI) Studies Enrollment Form

## Glossary

- **Assembly Bill 109 (AB 109):** State legislation passed in 2011 and implemented in 2012, the Prison Realignment Act transfers responsibility for supervising specific classifications of felony offenders (non-serious, non-violent and non-sexual) and state prison parolees from state prisons and parole agents to county jails and probation officers. It further allows judges more sentencing options. Judges may sentence offenders to house arrest, community service, furlough programs, work release or substance abuse treatment. In

addition, the judge may sentence offenders to a partial jail term that allows offenders to finish their sentence in the community with mandatory supervision.

- **Assembly Bill 900 (AB 900) (2007):** The Public Safety and Offender Rehabilitation Services Act provides funding to local agencies to expand infrastructure and create rehabilitation services mandated by AB 109. It is intended to increase institutional safety as well as public safety when offenders are released.
- **California Penal Code 919(a):** “The Grand Jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted.”
- **California Penal Code 919(b):** “The Grand Jury shall inquire into the condition and management of the public prisons within the county.”
- **Proposition 47 (2014):** State proposition that reclassifies many nonviolent crimes, such as drug and property crimes, from felonies to misdemeanors. It also allows for possible resentencing of those already in prison for these crimes.
- **Proposition 57 (2016):** State proposition that allows offenders of nonviolent felonies who have sustained good behavior to be considered for early parole. It also changes policies on juvenile prosecution and authorizes sentence credits for rehabilitation, good behavior, and educational programs.
- **Prison Rape Elimination Act (PREA):** A Federal Act of 2003 to set standards for the detection, prevention, reduction, and punishment of prison sexual assault. It also provides funds to help state and local governments to implement the act.
- **Senate Bill 10 (SB 10):** Signed into law August 28, 2018, and goes into effect October 1, 2019, the state bill will eliminate bail and replace it with a risk-based assessment to determine if a person should be released pending trial. The assessment determines a person’s risk to public safety and the risk of failure to appear rather than one’s ability to pay for bail.
- **Senate Bill 1143 (SB 1143) (2016):** The state bill bans the use of room confinement as punishment when it compromises the mental and physical health of a minor. Additionally, it limits confinement to a maximum of four hours unless there is a threat to the safety and security of staff or other juveniles. It also includes steps to reintegrate the minor back into regular confinement as soon as possible.
- **Senate Bill 1266 (2011):** Alternate Custody Program. Allows inmates to leave prison prior to their Earliest Possible Release Date (EPRD) and serve the remainder of their sentence in the community under the supervision of a Parole Agent. The inmate may be housed at an approved private residence, a live-in treatment facility, or in transitional housing such as a group home.
- **The Plata Decision (2011):** Brown vs. Plata is a U.S. Supreme Court injunction ordering the California Department of Corrections and Rehabilitation to release approximately 46,000 inmates to ease overcrowding.

## **San Joaquin County Jail and Honor Farm**

The Grand Jury toured the San Joaquin County Jail and Honor Farm on October 10, 2018. The facility Captain, five Lieutenants and a Sergeant met the Grand Jury and gave a brief description of their assigned duties and an overview of the facilities, housing units, and services. All County Jail staff conducted themselves in a positive and professional manner while interacting with both Grand Jury members and inmates throughout the tour.

A more in-depth presentation of the County Jail operation was given by Sheriff Steve Moore in the Grand Jury Meeting Room on October 31, 2018. The Sheriff Department's Use of Force and Inmate Classification policies were provided to the Grand Jury. The Sheriff also stated a new jail would be built in the near future. In an article dated September 26, 2018, the Stockton Record cited Sheriff-elect Pat Withrow as stating the project should be completed in July 2021. The new jail will provide space for AB 109 education and training programs that prepare inmates to make a successful transition back into the community.

The County Jail currently houses more than 1,300 inmates. The maximum capacity is 1,550; however, the population can reach 1,585 before court-ordered releases become mandatory. When releases become mandatory, a Superior Court Judge determines which inmates will be released based on the risk they present to the community. The judge then resents an offender to a partial jail term and allows the offender to finish in the community with mandatory supervision for the remainder of the sentence.

It was noted that one Lieutenant is designated as the AB 109 Realignment Lieutenant. His job is to implement, coordinate, and monitor the different programs and services at the County Jail as mandated by AB 109. He stated that most of the mandates for the jail have already been implemented and additional trade programs will be added when the new jail opens. Current programs include life skills, substance abuse counseling, anger management, job readiness and employment assistance, and education services.

The inmates have access to a GED program, as well as employment preparation training to assist them in their post-release job search. Additionally, a private vendor is proposing to provide an electronic tablet for each inmate in the County Jail at no cost to the taxpayers. These tablets will give inmates access to all necessary information pertaining to the County Jail and its procedures. Inmates will also be able to use the tablets to access on-line college courses, vocational training, anger management classes, library resources, newspapers, magazines, and other informational materials. Jail staff reports that access to such devices has helped reduce violence in similar facilities. The vendor expects to recover costs by charging inmates for phone calls made on their tablets.

Like most law enforcement and correctional agencies, the County Jail is experiencing staff shortfalls due to budget limitations and recruitment issues. Filling open positions is hampered by competition for qualified applicants. The jail is currently understaffed by 35 officers, which is

approximately 10-12 percent below full staffing. These figures do not include officers on sick leave, Workers' Compensation, etc. The inmate-to-staff ratio is 64 inmates to 1 officer.

Throughout the tour, County Jail staff emphasized their policy of "Direct Supervision" which encourages good behavior through a system of rewards such as more privileges and less restrictive housing. According to staff, this has had an overall positive effect on the inmate population. When discipline is needed, it is handled by the unit Sergeants or above, with punishment for misbehavior ranging from verbal warnings to forfeiture of good time credits. Any misbehavior rising to the level of a felony is referred to the District Attorney for possible prosecution.

The County Jail staff appears to be exceptionally skilled in managing the general inmate population with the direct supervision style. However, some inmates, such as those with mental health issues, violent or self-destructive behavior, gang affiliation, or need for protective custody from other inmates, are not placed among the general population. These inmates are housed in a separate unit called Administrative Segregation, or Ad/Seg, which is a more restrictive housing unit.

The lowest risk inmates with sentences of two years or less are housed at the Honor Farm. According to Jail staff, filling beds at the Honor Farm is becoming more difficult due to the early release of inmates. Some of the vacant barracks are being used by the Ready to Work Program which began in 2018 and provides housing, work experience, and training to men who are leaving homeless shelters or the criminal justice system.

The overall general condition of the jail was clean and well maintained. It was noted that a few cell walls, doors, and windows had graffiti and etchings. Inmates have access to telephones in every unit and in all yards. Inmates also have access to medical, dental, and psychiatric services by request or staff referral. Food for inmates is prepared entirely offsite at the Santa Rita Jail in Pleasanton by contractor Aramark Corporation and delivered to the County Jail three times per day. There are various food options to meet the needs of individual inmates based upon their dietary, medical, and religious requirements.

The visiting room was clean and quiet. It included kiosks for visitors to deposit money into inmates' accounts. The money can be spent at the jail commissary or to pay for phone calls. The telephone service available to inmates charges a per use fee.

The County Jail complex is inspected annually by staff from the French Camp McKinley Fire District. The last annual fire inspection was in May of 2018. Fire extinguishers throughout the facility were observed to have been certified in April of 2018.

The Jail staff appears to be doing a good job implementing changes required by recent State laws, such as AB 109, Proposition 57, and SB 10. As a result of the passage of Proposition 57, fewer people are sentenced to state prisons and more are housed at county jails. AB 109 allows for lower risk inmates to be released early due to overcrowding. SB 10 will allow more low-risk accused to be released pending trial without bail, while higher risk accused with more potential for violence will remain in jail. In addition, proposed modifications to the Three Strikes law will bring those

convictions back to the counties for re-evaluation. The outcome of these laws is a greater concentration of higher-risk inmates in custody. The staff's efforts to implement these laws and establish programs to improve the ability of inmates to be successful when they are released should be commended.

### **California Health Care Facility (CHCF)**

The Grand Jury toured the California Health Care Facility on November 7, 2018. Prior to the tour, the Grand Jury met with the Warden, his administrative staff, and the Chief Medical Officer. The Warden gave a brief overview of the institution and its mission. The mission is to provide quality medical care and mental health treatment as dictated by the Coleman Decision, AB 109, the Plata Decision, and Proposition 57. The Coleman Decision found the California Department of Corrections and Rehabilitation deficient in the following six areas of treatment of mental health inmates: mental health screening, treatment programs, staffing, accurate and complete records, medication distribution, and suicide prevention. According to the Warden, the CHCF is the most audited, monitored, transparent institution in the state.

The Warden also stated he is working with inmates to improve trust by requesting inmates to free themselves from inmate politics (gang affiliations). In return, staff will use a more discretionary approach to the inmate disciplinary process. He believes this will allow all inmates to do their time peacefully and take advantage of the new criteria for early parole. They will also then qualify for programs that provide work skills and education, both inside the institution and in the community upon parole. These programs help make their transition successful and reduce recidivism.

The institution opened July 2013 and is one of the largest in the state, covering approximately 350 acres. CHCF has an annual operating budget of approximately \$500 million dollars, the largest institutional budget in the state. The maximum inmate capacity is 3,060. At the time of the Grand Jury visit there were only 2,700 inmates. There are 1,400 nurses, approximately 40 doctors, 700 psychiatric staff, 400 contracted employees, and 1,200 custody staff. The majority of the inmates at the institution have medical or mental health problems. However, there is a smaller population of "Mainline" inmates without medical or mental conditions. These inmates comprise the work force that operates the warehouse, laundry, culinary, and plant operations (plumbers, electricians, carpenters, mechanics, and all maintenance). There are also jobs that provide personal care to other inmates, such as assisting wheelchair-bound inmates by aiding them in daily life functions such as showers, feeding, and moving from place to place within the institution.

The institution has a large kitchen where inmates prepare all meals. They can make 100 or more different types of meals to meet various dietary requirements. A "quick freeze" or "quick chill" method is used to prepare meals. Meals are cooked, placed in a double-sided tray, sealed and frozen in a cooling unit. The trays are transported to each housing unit where they are placed in a heating unit. Once the tray is properly heated, it is served to inmates in their cell. On average, it costs \$3.48 per day to feed an inmate.

There are five facilities labeled A through E. Each facility has several housing units. Housing in facilities A, B, C, and D are staffed with custody, medical, and/or psychiatric staff. Housing unit A is the Crisis Care facility where inmates in mental health crisis are temporarily housed until well enough to be returned to their primary institution. If their crisis is not resolved, they are transferred to housing unit B, the Psychiatric Inpatient Program (PIP) for continued mental health treatment. Facilities C and D house inmates with a variety of medical conditions. One housing unit in D facility is designated as a palliative care unit for inmates who are terminally ill. In the future, a housing unit will be dedicated to Alzheimer and dementia inmates. Another unit may be created specifically for elderly inmates. Facility E is where the Mainline inmates are housed. It is also the facility where Administrative Segregation (Ad/Seg) is located.

At the hub of the CHCF is an extensive network of medical services including: diagnostic imaging, outpatient medical, physical and medical rehabilitation, dialysis, patient management, dental services, and a stand-by emergency clinic.

There are four apartments for family visitation. Family visitation is a privilege inmates earn by meeting certain criteria while maintaining good behavior. Each apartment has a kitchen, living room, bathroom, and two bedrooms. One bedroom holds three twin beds. Visits are 46-hours long. Prior to visiting, the family submits a grocery list, deposits funds to pay for the groceries, and staff stocks the kitchen. Inmates are eligible for a maximum of six visits yearly.

Due to time constraints, the Grand Jury was unable to tour Facility E where the Mainline inmates are housed and where the Administrative Segregation unit is located.

## **Peterson Juvenile Hall**

The Grand Jury toured the San Joaquin County juvenile detention facilities, known as Peterson Juvenile Hall, on December 19, 2018. Three Deputy Chief Probation Officers greeted the Grand Jury and provided an overview of facility operations. They emphasized “this is not the juvenile hall of the past”, and they are not the repository for “out-of-control youth”.

Peterson Hall is used to hold youth who: (1) have been accused of violating the law, (2) have pending court proceedings, or (3) have been committed by order of the Court. When detainees arrive, they are immediately evaluated to assess their risk to the community, others, or themselves. A comprehensive assessment is conducted by educational, medical, psychiatric, probation, and custody staff. Educational, medical, and psychiatric staff are from different county agencies, but work together at the detention facility. All staff, regardless of their source agency, work as a team.

Low-risk youth are released back to their parent/legal guardian or placed in foster care. Others may be referred to community-based programs for services or placed on probation. The goal is to return low-risk youth to their families where they are able to access community-based programs and resources.

Youth who are deemed high-risk remain at the facility until the Juvenile Court decides whether to release, place on probation, or hold pending adjudication of their offense. Professional staff work with the youth to help them “think pro-socially and make better choices” by using evidence-based programming and a reward system that reinforces positive behaviors with more privileges.

Discipline is reward-based. Good behavior allows more privileges, while bad behavior restricts privileges. Rule violations result in restriction of leisure activities such as video games or television. Additional restrictions may include limiting canteen access, visiting or phone time. Probation or juvenile court may also be notified of the sanctioned behavior for possible modification of sentence.

Youth are given a free phone call upon arrival to call their parent, guardian, employer, or lawyer. Detention officers may allow a free phone call once a week. Phones are available to the youth in every housing unit and a staff-controlled cellphone may be utilized in emergencies.

Basic education, bolstered by technology and business training, are the focus for reducing recidivism. All youth are encouraged to continue their education and to earn their high school diploma. The facility has also initiated a technology and business skills training program that includes computer coding and programming as well as a pre-apprentice construction program and other building trades. The facility grounds are scheduled to be refurbished this year, and a side benefit may be a landscape training program. Due to the recent reopening of the on-site kitchen, a culinary training program is also being considered.

Prior to this year, meals were prepared off-site. The on-site kitchen now prepares three hot meals and two snacks daily, including meals that meet special dietary or religious requirements. The canteen is available once a week for those who have maintained good behavior and participated in their assigned programs.

Access to medical, dental, and mental health services is available at all times.

A grievance may be filed when a youth has an issue he/she feels is not being resolved. The grievance begins at the lowest level, given verbally to any member of the staff. If it is not resolved at that level, a written grievance is submitted to the Youth Advocate. If the grievance is still not satisfied, the matter may be brought to the attention of the Public Defender, a private attorney, or a probation officer.

Visiting is allowed six days per week, Saturday through Thursday with different hours for the general population and restricted youth.

Total capacity of the facility is 179 beds. Currently, there are 87 youth at the facility of which 11 are females. Ages range from 11 to 18 years old. Upon attainment of their 19<sup>th</sup> birthday, they must be placed elsewhere. The average stay for a youth is 42 days.

There are 28 Juvenile Detention Officers and six Juvenile Volunteer Officer positions allocated to the facility. At this time, only 14 of the Juvenile Detention and three of the Juvenile Volunteer positions are filled. Promotions and retirements have negatively affected staffing levels. Finding eligible candidates who can successfully pass the background check has been difficult.

The facility is a mixture of old, remodeled, and new construction, with staff and youth painting and decorating much of the facility. Numerous facility improvements are underway including new cameras, new intercoms (per a recommendation from the 2017–2018 Grand Jury), and installation of an air conditioner in the gym. The installation of the intercoms will be completed in 2019. Modesty screens have been installed in bathrooms and showers in compliance with PREA.

Since the facility is approximately half full, there are only three of six housing units currently operational. With the availability of vacant units, staff has created an activity area called “the Dream Center” where youth may play video games, watch television, learn computer coding, and participate in arts and crafts. This area is only for those who participate in assigned programs and obey all rules and regulations. Should the population increase, these units will be reactivated.

Fire evacuation plans are posted throughout the facility. Fire extinguishers were last inspected by the French Camp-McKinley Fire Department on September 18, 2018.

The most valuable asset at this facility is the dedicated staff. Even though they represent different county agencies, they project a unified positive attitude and work together for a common goal. They understand that this is where the justice system can affect the greatest change. Intervention is designed to put the youth back on a more productive path. The staff utilizes all available resources to create a positive and nurturing environment.

## **Deuel Vocational Institution**

The Grand Jury toured Deuel Vocational Institution (DVI) on February 6, 2019. The Warden and his Administrative Staff introduced themselves and gave a brief description of their duties.

The Administrative Assistant, a Correctional Lieutenant, showed a short video depicting the institution’s history and current operations. This informational video was produced by staff and inmates in DVI’s in-house Institutional Television Center (ITV).

Per the DVI presentation package, there are approximately 508 custody staff, 364 non-custody staff, and 134 medical staff. Unlike most law enforcement agencies in San Joaquin County, custody staffing levels are stable and close to maximum. However, the Warden emphasized a desperate need for Librarians.

DVI serves as a Reception Center (RC) for inmates from 29 northern California counties. The RC evaluates and assigns inmates to one of the 35 state prisons. Therefore, the current inmate population of 1,940 is divided into two distinct groups: RC inmates and Mainline inmates. RC

inmates are the transitional inmates. Mainline inmates have been processed and assigned to DVI to serve their sentences.

Mainline inmates provide the institution with a workforce that helps with operational functions such as building maintenance, janitorial services, and food service. In addition, Mainline inmates may participate in vocational training, education programs, and other self-help programs.

Some of the lowest custody Mainline inmates live and work outside the prison's fenced perimeter in an area known as the Minimum Support Facility (MSF). They work as firefighters, dairy workers, sewer plant operators, garage mechanics, community road crews, and in other jobs. The MSF currently houses 130 inmates in minimum security dorms, and ten inmates in the institutional firehouse.

The Lieutenant led the tour of the prison. The institution appeared clean. Many areas have been upgraded to accommodate programs and services mandated by recent legislation and court decisions, such as AB109 and the Plata Decision.

The Grand Jury's tour included the visiting room, the ITV, some of the vocational training areas, Receiving and Release (R&R), and a Mainline housing unit.

Although the three visiting areas were closed to visitors at the time of the tour, Jurists were able to view them. The main visiting room is for the general population and consists of tables, chairs, and vending machines. Reception Visiting Center Booths are along one wall and the Administrative Segregation Visiting Booths are along another. Inmates enter and leave through the Visiting Search area. Inmates may be searched entering this area and all are searched upon leaving. Inmates may be physically searched and/or searched with an electronic body scanner.

Inmates were on hand to explain the purpose of the ITV and describe their duties. A more apt name might be the Media Center, as they do more than simply play programs over the DVI channel. The ITV team also creates and produces a variety of internal programming and functions as a small television station showing educational and informational programming. The Lieutenant indicated this media center could provide the basis of a new vocational program.

The vocational area was not in use during the visit, but the Lieutenant pointed out the locations of some of the individual programs such as auto body, auto mechanics and computer training. She noted one of the computer training programs was designed for older inmates who are not familiar with computers but need basic computing skills to compete for jobs upon release.

All inmates entering and leaving DVI pass through R&R, whether they are transitional RC inmates or the Mainline inmates to be housed at DVI. Inmates are photographed and fingerprinted and issued an ID card. Other information gathered during this process such as medical, dental, and mental health data, will be added to their profile. After the intake process is complete, the inmates are assigned housing.

The Grand Jury was led to a Mainline housing unit, with brief stops at the Infirmary and K-Wing, one of the Administration Segregation units. Both were closed for renovations. The infirmary was getting a complete renovation. The bar and mesh doors in K-Wing were being changed to solid doors to improve officer safety. This change will require the addition of air conditioning to these units.

The Grand Jury was able to see a cell in the Mainline unit, while the Lieutenant described some of the dangers and difficulties custody staff deal with on a daily basis in these close quarters.

In the past, the primary mission of the California Department of Corrections and Rehabilitation (CDCR) was to protect the public safety through the safe-isolating inmates from the general public through incarceration. The prison reform envisioned by AB 109 has expanded the mission to include providing inmates with education and rehabilitation programs aimed at successful re-entry into society and reduced recidivism. Not all inmates choose to participate in the educational and rehabilitation services now available to them. However, there are many who will take advantage of these life-changing opportunities to create a more self-reliant future for themselves and their families.

## **San Joaquin County Civil Grand Jury Ride-Alongs**

The Grand Jury members are offered and encouraged to participate in ride-alongs with law enforcement and fire agencies in San Joaquin County. Following is a summary of participating juror's observations during their ride-along.

### **Stockton Police Department**

- Three jurors participated in ride-alongs with this agency.
- One juror described his ride-along officer as a five-year veteran with a “professional way of handling an array of situations” including a report of a shooting, vandalism at Oak Park, and domestic calls. The juror noted the officer treated everyone he encountered with respect and concern.
- The second juror described her female ride-along officer as being “respectful and very patient.” Female officers make up approximately ten percent of all Stockton police officers. During the ride-along the officer engaged with some homeless individuals, arrested a person on an outstanding warrant, was called to a family disturbance which required back-up, and then went to the aid of another officer.
- The third juror rode with an officer who had been on the force for approximately one and a half years. They fielded several calls including reports of aggressive panhandlers, several homeless encampments along a roadway, and an alleged incident of indecent exposure. They also drove through Oak Park, Louis Park, and Pixie Woods as a show of police presence.

### **Stockton Fire Department, 110 West Sonora Street**

- The juror met with the Fire Chief, a Battalion Chief, a Captain, and a firefighter who gladly answered all questions.
- There was only one call during the juror's visit. Halfway to the call, a closer unit responded and took the call.
- The juror was "impressed with their duty and passion for their jobs." The juror also noted that they demonstrated compassion and concern for the people caught up in the recent wildfires throughout the state and for the safety of their fellow firefighters battling these wildfires.

### **City of Stockton Code Enforcement**

- The juror met with a Police Services Manager and a Senior Code Enforcement Officer. The juror noted that the Code Enforcement Department is understaffed with only 23 of 29 budgeted positions filled and that they are working with outdated tablets, laptops, and printers.
- The juror was taken into the field to observe inspections.
- The juror described the Code Enforcement staff as "maintaining a positive and productive line of communication with the community."
- Code Enforcement works alongside other agencies to clean up problem areas, remove homeless camps, and ensure businesses observe all codes and laws regulating business operations.
- The juror stated that the Code Enforcement staff worked with people and businesses to resolve issues without resorting to formal citations.

### **San Joaquin County Sheriff's Department**

- Two jurors had ride-alongs with this agency, each with the same deputy.
- One juror's shift included two family dispute calls, a report of elder abuse, a landlord/tenant dispute, and a report of a homeless person in a shed in someone's backyard. The shift ended with a deceased person call. During the ride-along of the second juror, they responded to a variety of calls, including shoplifting, domestic disputes, theft from the account of a deceased person, and an illegal eviction.
- The juror was informed that the Sheriff's Department had made the change from handwriting their reports to electronic reporting. The reports are entered into the vehicle's laptop computer and prints at the county jail.
- Both jurors described the ride-along deputy as dedicated, polite, professional and thorough.

### **San Joaquin County Sheriff's Marine Patrol**

- Conducting the ride-along were two Deputies assigned to the Marine Patrol. The Sheriff's Marine Patrol consists of eight fulltime deputies. They use reserve deputies when necessary.
- These deputies are responsible for approximately 500 miles of waterways. They provide services such as towing disabled boats, rescuing those who have fallen in the water, and providing flotation devices as needed. They also assist the U. S. Coast Guard, Homeland Security, U. S. Customs, and California Fish and Game. They have a mutual aid agreement with Contra Costa County and Sacramento County.
- During the ride-along, the Marine Patrol had the following calls: a sunken boat that created a hazard, suspicious behavior of three boaters, parking violations at a marina, and a mutual aid request from Contra Costa County to assist with a possible rescue.
- The deputies reported that homeless camps are becoming a major problem along the waterways.
- Distances can make backup response an issue for the officers.
- The juror said that despite the department's lack of personnel and modern equipment, deputies are "very professional and maintain their dedication to marine safety."

### **San Joaquin County Sheriff's Property and Evidence Department**

- The juror was given a tour of the Evidence Department by an Evidence Deputy. The Department has a total of 13 staff members to cover three shifts. They all perform "multiple tasks" that include taking photographs, collecting DNA and fingerprints, and conducting shell casing analysis.
- There was only one call, which was an assault. An evidence officer photographed the injuries. Upon return to the office, the officer processed the photos and forwarded them to another deputy to be used as evidence.
- Evidence staff's primary complaint was the lack of computers to perform their jobs.

### **Manteca Fire Department**

- The juror met with the Administrative Fire Chief who explained the overall organization of the Manteca Fire Department.
- A volunteer firefighter gave the juror a tour of four fire stations, including the site of one to be opened in 2020. The juror received a warm reception at each station and was able to "ask many questions about coverage, equipment, duties and responsibilities of the firemen."
- At all stations, fire personnel repeated the need for more manpower and more stations, noting the City is expecting additional growth and when the Great Wolf Water Park opens in 2020, it alone will add at least four calls a day.

## **Manteca Police Department**

- Three jurors had ride-alongs with this agency.
- One juror was paired with an officer with eight months experience who received friendly greetings from citizens throughout the ride-along. During the ride-along there were several contacts and after each one the officer downloaded his body camera to the department server via the vehicle's onboard computer. This is done to ensure the footage is not altered.
- The second juror was paired with an officer whose primary responsibility was to "cover the homeless in Manteca". The officer is one of two patrol officers assigned to monitor homeless individuals and to respond to other calls as needed. During the ride-along the officer drove to all the homeless camps in Manteca and contacted many of the camp residents. The officer treated them with respect and a friendly demeanor.
- The officer stated that there are approximately 100 people classified as homeless, but approximately 40 of these are couch surfers (those who sleep at family or friends' houses) and 60 to 70 are unsheltered homeless.
- The third juror was paired with an officer who underscored the department's motto, "No Call Too Small."
- One juror's tour began at the police dispatch center. The dispatch center has two employees and as of August, they had handled 33,556 calls in 2018. In all of 2017, 42,069 calls were processed. During the ride-a-long, the officer made several traffic stops and issued one citation.
- The officer noted that the time to book a suspect can be as long as four hours, taking the officer away from patrol duties and back-up requests.

## **Tracy Police Department**

- During the ride-along, the officer's focus was on traffic violations in the downtown area. Multiple traffic stops were made for various infractions.
- Other calls included a family dispute involving a minor and an active stolen vehicle pursuit. The officer responded immediately, going to the location with emergency lights and siren on. At the scene, officers responded with weapons drawn on one individual, as the second individual ran away, later to be found hiding in a dumpster behind the mall. Both individuals were taken into custody.
- During many of the interactions, the juror was asked to stay in the vehicle. However, in the observed interactions, the Tracy Police demonstrated a very high level of professionalism.

### **Ripon Police Department**

- The juror's ride-along lasted two hours and resulted in four traffic stops in which three warnings and one citation were issued.
- The juror was impressed with the proactive policing procedures as explained by the officer and also with the highly secure, modern headquarters.

### **Overall Findings**

- Overall, the ride-alongs gave jurors a greater appreciation for these dedicated men and women who perform difficult and dangerous jobs.
- A recurring complaint across all agencies is the shortage of funding and staff along with the need for updated equipment.



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**Follow-Up**



# San Joaquin County Grand Jury

## Follow-up Reports



## Introduction

Each year Grand Juries investigate and prepare reports with findings and recommendations directed to local governments and other public entities. California Penal Code sections 933 and 933.05 require that the agencies provide written responses to all findings and recommendations to the Superior Court.

Section 933.05 requires that for each finding, the responding person or entity must indicate one of the following: 1) the respondent agrees with the finding, or 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.

For each recommendation, the responding party must provide one of the following responses:

- 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 therefor.

This section of the 2018-2019 Grand Jury's Final Report contains the responses to the 2017-2018 report, as well as the follow-up to several reports from earlier Grand Juries. The findings and recommendations, as well as the agencies' responses, are provided verbatim.

In addition to reviewing the responses to ensure that they met the criteria specified above, the 2018-2019 Grand Jury also determined whether additional follow-up is needed. If an agency's response is not clear or complete, or if it includes a future date for implementation of the recommendation, the Grand Jury may choose to conduct a follow-up review. If a future date is indicated, the Grand Jury will verify whether or not it is completed at the time indicated by the agency.

When an agency responds that they do not intend to implement the recommendation of a Grand Jury, the Grand Jury may choose to take no further action or to conduct a new investigation.

**Follow-up Report to the  
2017-2018 San Joaquin County Civil Grand Jury**

**Case #0117**



**Code Enforcement Departments of San Joaquin County**

**Preface**

This report contains the responses to the 2017-2018 San Joaquin County Civil Grand Jury report regarding Code Enforcement Departments of San Joaquin County, the cities within its geographical boundaries, and the community of Mountain House. This follow-up report focuses on the 2017-2018 Grand Jury findings and recommendations, as well as the agencies' responses, which are presented verbatim in this report. The 2018-2019 Grand Jury follow-up determinations are presented after the agencies' responses.

A complete copy of the original report and the agencies responses may be found on the San Joaquin County Civil Grand Jury website at <https://www.sjcourts.org/grandjury>

**Summary**

The 2017-2018 Grand Jury examined the code enforcement departments within San Joaquin County to determine the level of enforcement. Several of the departments were still experiencing the effect of the housing crash of 2008 and the subsequent budget and staff reductions. The major recommendations made by the 2017-2018 Grand Jury were that the code enforcement departments explore budget options, use of volunteers, and possible grant funding to improve code enforcement efforts.

## Method of Follow-Up Investigation

The current Grand Jury reviewed the 2017-2018 report #0117 “Code Enforcement Departments of Joaquin County” and evaluated the mandatory responses to the findings and recommendations. Responses were reviewed to determine:

- If the agency’s responses were complete and comprehensible.
- If the agency would implement the recommendations within the stated deadlines.
- If confirmation was necessary. Confirmation could include written documentation, interviews or site inspections.

## Summary of Responses and Grand Jury Conclusions

Respondent	Finding #	Response	Rec #	Response	Grand Jury Conclusion	
					Comments	Conclusion
City of Escalon	F1.1	Agrees	R1.1	Will implement		No further action taken
City of Lodi	F2.1	Agrees	R2.1	Will not implement		No further action taken
	F2.2	Agrees	R2.2	Will implement		
City of Manteca	F3.1	Disagrees	R3.1	Further Analysis Needed		No further action taken
City of Ripon	F4.1	Disagrees	R4.1	Will not implement/Other		No further action taken
City of Tracy	F5.1	Disagrees	R5.1	Implemented		No further action taken
Community of Mountain House	F6.1	Disagrees	R6.1	Will not implement		No further action taken
City of Lathrop	F7.1	Disagrees	R7.1	Implemented		No further action taken
	F7.2.1 and F7.2.2	Disagrees	R7.2	Implemented		
	F7.3	Disagrees	R7.3	Implemented		
County of San Joaquin	F8.1	Agrees	R8.1	Will be implemented		No further action taken
City of Stockton	F9.1	Agrees				No further action taken
	F9.2	Agrees				

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

### 1.0 City of Escalon

**2017-2018 Grand Jury Finding F1.1:** Escalon is still experiencing budget and staffing reductions created by the housing crash in 2008. The resulting level of enforcement is reactive, which allows blight and safety issues to continue.

***Agency Response:*** *The City agrees that with the reduction of staffing in prior years has hindered the enforcement level regarding blight and safety issues. City Staff has and will continue to make any potential health or safety issue a priority.*

**2017-2018 Grand Jury Recommendation R1.1:** Escalon explore budget options to restore the code enforcement officer position and consider using volunteers to increase code enforcement compliance.

***Agency Response:*** *The City of Escalon will continue to explore budget avenues to ensure that safety, health or blight issues are being addressed in timely matters. This will include exploring the use of volunteers.*

- **The 2018-2019 Grand Jury determined to take no further action.**

### 2.0 City of Lodi

**2017-2018 Grand Jury Finding F2.1:** The City of Lodi is still experiencing budget and staffing reductions created by the housing crash in 2008 but is using senior volunteers to deliver notices of code violation, resulting in a voluntary compliance rate of 62%.

***Agency Response:*** *Lodi agrees with this finding.*

**2017-2018 Grand Jury Finding F2.2:** The homeless population continues to grow and creates increased blight and health issues.

***Agency Response:*** *Lodi agrees with this finding.*

**2017-2018 Grand Jury Recommendation R2.1:** Explore budget options and grant funding to improve code enforcement.

***Agency Response:*** *The City currently has two full time code enforcement officers, having added a second officer in September, 2016, and continues to use senior volunteers (Partners) to deliver notices of code violation within the City. No further action is needed at this time.*

**2017-2018 Grand Jury Recommendation R2.2:** Plan for future expansion of code enforcement efforts to meet the increasing needs of the community, including the homeless population.

**Agency Response:** *The City continues to address issues involving code enforcement, including the needs of our homeless population, by partnering with community group 'Take Back Lodi' on cleanup efforts in homeless encampments and the retrieval of abandoned shopping carts; enforcement of the City's shopping cart ordinance adopted in September 2017; supporting efforts of the County Homeless Task Force; and work with the faith-based community on its annual 'Love Lodi' community wide improvement and beautification projects. In addition, the City created the position of a Community Liaison Officer within the Police Department to assist with outreach to the homeless community. The Community Liaison Officer is assisted by a part-time employee. In the past eleven months the Officer has been able to assist more than 100 homeless people with housing, program placement, or reunification with friends and family. Of those individuals, 26 were placed into programs; and four veterans were placed into housing and counseling programs. The City is continuing to look at creative ways to expand code enforcement efforts within the community.*

- **The 2018-2019 Grand Jury determined to take no further action.**

### **3.0 City of Manteca**

**2017-2018 Grand Jury Finding F3.1:** Manteca is still experiencing budget and staffing reductions created by the housing crash in 2008. The resulting level of enforcement is reactive, which allows blight and safety issues to continue.

**2017-2018 Grand Jury Recommendation R3.1:** Manteca explore budget options to restore the code enforcement officer position and consider using volunteers to increase code enforcement compliance.

**Agency Response:** *This finding has been reviewed by the City Council at the November 20, 2018 meeting. The City of Manteca has not cut any code enforcement positions, so unclear how the finding was derived. However, pursuant to subdivision 933.05 (b)(3), this recommendation requires further analysis by the Police Department that is responsible for code enforcement and the City Manager, as it directly relates to increases to budget and personnel. Manteca currently has 2.5 FTE dedicated to code enforcement and the City Council will need to explore possible options for adding additional FTE during the upcoming budget process.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## 4.0 City of Ripon

**2017-2018 Grand Jury Finding F4.1:** Ripon is still experiencing budget and staffing reductions created by the housing crash in 2008. The resulting level of enforcement is reactive, which allows blight and safety issues to continue. Current staffing levels require that one employee perform multiple duties including code enforcement, animal control, part-time communications dispatch, and other duties as assigned.

**2017-2018 Grand Jury Recommendation R4.1:** Ripon explore budget options to restore the code enforcement officer position and consider using volunteers to increase code enforcement compliance.

***Agency Response:** In response to the findings of the Grand Jury in the above referenced matter, the City Council respectfully disagrees with the Finding that overall staffing for code enforcement has been reduced, based upon the summary and statistics set forth below (See Exhibit 1). At the same time, the City Council affirms the principle that code enforcement is a vital local agency function that must be handled proactively whenever possible.*

*At some point in the future when the code enforcement activity dictates the need to assign a full-time staff member to code enforcement activity, the City Council will direct staff to evaluate the funding for this full-time position. Additionally, the City Council will direct staff to provide the Council with a report on the ability to use volunteers to assist City staff to increase code enforcement compliance. This report shall be provided at an open and public meeting prior to October 31, 2018.*

- **The 2018-2019 Grand Jury reviewed the minutes of the October 9, 2018 Ripon City Council meeting. A report presented to the City Council found that the number of staff hours dedicated to code enforcement has not been cut, but rather increased over the last five years. If future code enforcement activities dictate the need for additional staff to conduct code enforcement activities, the City will analyze all options available.**

**Based on this response, the 2018-2019 Grand Jury determined to take no further action.**

## 5.0 City of Tracy

**2017-2018 Grand Jury Finding 5.1:** Tracy is still experiencing budget and staffing reductions created by the housing crash in 2008. The resulting level of enforcement is reactive, which allows blight and safety issues to continue.

**Agency Response:** *The City disagrees with this finding.*

*Staffing levels in the City's Code Enforcement Division were not affected during the housing crash in 2008 and subsequent recession. Over the past 18 months, the City has increased its focus on quality of life issues affecting the Tracy community. As part of the City of Tracy's Quality of Life Strategic Priority, the Tracy City Council authorized during its approval and adoption of the 2017-19 fiscal budget, an increase in Code Enforcement staff from two Code Enforcement Officers, one Administrative Assistant, and one Code Enforcement Manager to four Code Enforcement Officers, one Code Case Analyst, one Administrative Assistant and one Code Enforcement Manager.*

*In an effort to address community concerns related to code compliance and to increasing the quality of life, the City has been proactive in adopting ordinances and utilizing various enforcement tools, as follows:*

*Ordinances:*

- *requiring retailers to submit a shopping cart removal prevention plan to the City to address the issue of abandoned shopping carts,*
- *prohibiting parking of vehicles on unpaved surfaces,*
- *restricting the percentage of the front yard that may be paved on residential property, and*
- *establishing standards and permit requirements for temporary storage containers on residential property.*

*Enforcement Measures:*

- *Caseloads for the periods January 1, 2017 to August 28, 2017 and January 1, 2018 to August 28, 2018:*
  - *For the period January 1, 2017 to August 28, 2017*
    - *Cases investigated – 766*
    - *Cases closed – 727*
  - *For the period January 1, 2018 to August 28, 2018*
    - *Cases investigated – 1,151*
    - *Cases closed – 1,081*
- *From January 2, 2018 to August 31, 2018:*
  - *Issued 134 Notices and Orders/Orders to Abate or Show Cause.*
  - *Issued 27 Administrative Citations with fines ranging from \$100 to \$500 each.*
    - *Fine amounts paid to the City for Administrative Citations in 2017 - \$600.00*
    - *Fine amounts paid to the City for Administrative Citations in 2018 - \$2,238.00*
  - *Processed and administered 17 Notice and Orders related to Fire Prevention violations.*

- Completed 11 public nuisance and graffiti abatements within the City's right-of-way.
- Obtained and completed warrants for inspection of nuisance properties.
- Code Enforcement staff also investigated and prepared evidence for the City Attorney's Office to initiate litigation of three cases for judicial review, including actions for public nuisance abatement and receiverships, in the past calendar year.

*Community Outreach:*

- Increased participation with Operation Helping Hands from once per month to twice monthly.
  - Operation Helping Hands is a multi-agency, multi-disciplinary team formed to provide street level collaboration of law enforcement and service providers. The team includes the Tracy Police Department, Tracy Code Enforcement, San Joaquin County Behavioral Health Services, Central Valley Low Income Housing, TRICARE medical service providers, the Tracy Health Resource Center, a representative from a Veteran's organization, church representatives and other local, non-profit groups that provide assistance to the homeless.
- Providing education on the implementation and enforcement of newly adopted ordinances, including the shopping cart removal prevention plan ordinance, the ordinance prohibiting parking on unpaved surfaces, and the ordinance establishing standards and permit requirements for temporary storage containers on residential properties.
- Code Enforcement staff also participated in and/or attended the following:
  - Eight (8) San Joaquin County Homeless Task Force meetings.
  - Eight (8) Neighborhood Watch Meetings, which included a presentation before the Police Chief's Citizen Advisory Group.
  - Presentations on current trends in code enforcement to the Tracy Chamber of Commerce (2), Tracy Board of Realtors (3), and the Breakfast Lions Club (1).

**2017-2018 Grand Jury Recommendation R5.1:** Tracy explore budget options to restore the code enforcement officer position and consider using volunteers to increase code enforcement compliance.

**Agency Response:** *This recommendation has been implemented.*

*No reduction in Code Enforcement staffing occurred during the 2008 housing crash. Code Enforcement staff increased when the Tracy City Council approved two additional Code Enforcement Officer positions and one Code Case Analyst position during the City's 2017-19 fiscal budget approval and adoption.*

*The City of Tracy Code Enforcement Division does not have a formal volunteer program. However, through a partnership with the San Joaquin County Probation Department, court-ordered volunteers have been enlisted to assist the Code Enforcement Division through their*

*“alternative sentencing” program. This program offers an offender the option of completing a set number of hours of unpaid work in a nonprofit organization in lieu of a fine or spending time in prison. These volunteers assist with illegal sign removal within the City right-of-way and other blight-related assignments. These volunteers do not have personal contact with the community in the course of providing their services. In 2017, the volunteers provided approximately 120 hours of assistance to the Code Enforcement Division.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **6.0 Community of Mountain House**

**2017-2018 Grand Jury Finding 6.1:** Mountain House is still experiencing budget and staffing reductions created by the housing crash in 2008. The resulting level of enforcement is reactive, which allows blight and safety issues to continue.

***Agency Response:*** *The Grand Jury’s finding does not accurately describe the District’s staffing for code enforcement. The table below shows budgeted positions for code enforcement duties:*

<b><i>Fiscal Year</i></b>	<b><i>FTE* assigned to code enforcement</i></b>
<i>2009-2010</i>	<i>.8</i>
<i>2010-2011</i>	<i>.8</i>
<i>2011-2012</i>	<i>.8</i>
<i>2012-2013</i>	<i>.8</i>
<i>2013-2014</i>	<i>.8</i>
<i>2014-2015</i>	<i>.8</i>
<i>2015-2016</i>	<i>1.05</i>
<i>2016-2017</i>	<i>1.05</i>
<i>2017-2018</i>	<i>1.05</i>
<i>2018-2019</i>	<i>2.05</i>

*\*Full Time Equivalent*

*From the inception of the District, a position has been budgeted for code enforcement. This position also performs some building inspection duties. This position is assigned 80% to code enforcement and 20% to building inspection. A Senior Public Works Inspector position was added in fiscal year 2015-2016. This position is assigned 25% to code enforcement and 75% to building inspection. An additional code enforcement position was added for fiscal year 2018-2019; this position is dedicated to code enforcement. The current ratio of code enforcement personnel to residential units is approximately 1:2,700, compared to 1:3,000 for fiscal year 2008. To augment staff code enforcement efforts, the District has contracted*

*with vendors for graffiti removal. In recent years we have utilized expanded maintenance staff to correct graffiti and other acts of vandalism. Staff contacts West Valley Disposal or the responsible agency (San Joaquin County, City of Tracy) for removal of items illegally dumped in or around Mountain House.*

*In spite of the increasing levels of code enforcement personnel, staff is challenged to address all issues. Staff learns of violations by means of personal observation, resident complaints and use of the GoRequest reporting system. Code enforcement staff attempts to correct violations by means of personal contact and follow-up, but also issues citations for continuing non-compliance.*

*Staff takes a proactive approach to code enforcement by posting educational information on our website, in monthly newsletters and on door hangers and by hosting community workshops covering a variety of issues covered by covenants, conditions and restrictions (CC&Rs).*

**2017-2018 Grand Jury Recommendation R6.1:** Mountain House explore budget options to restore the code enforcement officer position and consider using volunteers to increase code enforcement compliance.

**Agency Response:** *The District did not eliminate a code enforcement position; as demonstrated above, the staffing level has increased. The District has addressed code enforcement concerns on multiple fronts:*

- *Budgeting a Senior Public Works Inspector in fiscal year 2015-2016 and a second Code Enforcement Officer in fiscal year 2018-2019*
  - *Using our website, newsletter, door hangers and community workshops for public education*
  - *Maintaining and monitoring the GoRequest on-line service*
  - *Instructing field personnel and other staff to report compliance issues*
  - *Promptly removing graffiti and repairing damage due to vandalism*
  - *Contacting West Valley Disposal or responsible agency (San Joaquin County, City of Tracy) for removal of items illegally dumped in or around Mountain House*
- **The 2018-2019 Grand Jury determined to take no further action.**

## **7.0 City of Lathrop**

**2017-2018 Grand Jury Finding F7.1:** Lathrop has taken limited code enforcement action toward the illegal parking of commercial trucks and failed to resolve the problem for approximately six years, allowing blight and public safety issues to remain.

**2017-2018 Grand Jury Recommendation R7.1:** Lathrop take consistent code enforcement action on the illegal parking of commercial trucks.

***Agency Response:*** *The City of Lathrop respectfully disagrees with the Grand Jury finding. The City of Lathrop Code Compliance Division exercises all powers vested by the City in response to blight and public safety issues, including illegal parking of commercial vehicles. For the past 6 years, Lathrop has initiated a total of 3,830 new cases, of which 103 were for illegal parking of commercial trucks. The City of Lathrop hired a Code Enforcement Supervisor on 3/12/2018. Since October of 2016, Code Enforcement has initiated 1,149 new cases, 20 of which for illegal parking of commercial trucks. Of those 20 cases, 18 have been closed for corrected violations, 2 are currently open and under re-inspections.*

**2017-2018 Grand Jury Finding F7.2.1:** Lathrop has a vacant budgeted position for code enforcement officer that city officials will not fill at this time. This has exacerbated the illegal truck parking issue.

**2017-2018 Grand Jury Finding F 7.2.2:** The City has not consistently hired qualified code enforcement officers. This contributes to the lack of reliable code enforcement.

**2017-2018 Grand Jury Recommendation R7.2:** Lathrop advertise and fill the vacant position of code enforcement officer, adhering strictly to the job description guidelines.

***Agency Response:*** *The City of Lathrop respectfully disagrees with the Grand Jury finding. The City does not have a vacant, budgeted position for Code Enforcement. The City hired a Code Enforcement Supervisor on 03/12/2018.*

**2017-2018 Grand Jury Finding F7.3:** Lathrop has no consistent appeals process that could be used to resolve the truck parking issue, causing the issue to persist.

**2017-2018 Grand Jury Recommendation R7.3:** Lathrop develop and implement a consistent appeals process that can be used to resolve enforcement disputes.

***Agency Response:*** *The City of Lathrop respectfully disagrees with the Grand Jury finding. On April 5, 2018 the City of Lathrop provided Grand Jury Staff a copy of the City's appeals process. Attached, please find the following excerpts regarding the administrative hearing process as outlined in the Lathrop Municipal Code;*

TITLE I GENERAL PROVISIONS

Chapter 1.12 ADMINISTRATIVE ENFORCEMENT PROCEDURES

1.12.340 ADMINISTRATIVE HEARING PROCEDURES

1.12.350 PROCEDURES FOR REQUESTING AN APPEALS HEARING

1.12.360 PROCEDURES FOR NOTIFICATION OF  
ADMINISTRATIVE HEARING

1.12.370	PROCEDURES AT ADMINISTRATIVE HEARING
1.12.380	FAILURE TO ATTEND AN ADMINISTRATIVE HEARING
1.12.390	ADMINISTRATIVE ORDER

(See Exhibit 2 for the excerpts from Lathrop Municipal Code)

- The 2018-2019 Grand Jury determined to take no further action.

## 8.0 County of San Joaquin

**2017-2018 Grand Jury Finding F8.1:** The county actively pursues the illegal parking of commercial trucks in unincorporated areas but, due to the large amount of undeveloped land, it is difficult to enforce the code. This has led to complaints.

***Agency Response:*** Agree. County Code Enforcement responds to a high volume of complaints, including illegal commercial vehicle parking. In general, we expect demand for Code Enforcement service to remain in excess of available staffing levels for the foreseeable future.

**2017-2018 Grand Jury Recommendation R8.1:** San Joaquin County continue to expand its enforcement efforts to prohibit illegal commercial truck parking.

***Agency Response:*** The recommendation will be implemented within the first quarter of fiscal year 2018-2019.

*The San Joaquin County Community Development Department will take the following actions to help resolve the issue. Under the Department's 2018-2019 budget, one new Code Enforcement Officer has been approved. The Department is currently working with the Human Resources Department to hire the new Officer. Once the officer has been hired, a portion of their time will be allocated to enforcement efforts to prohibit illegal commercial truck parking. This will supplement the time already spent by existing Code Enforcement Officers on this issue.*

- The 2018-2019 Grand Jury verified that the recommendation has been implemented and determined to take no further action.

## 9.0 City of Stockton

**2017-2018 Grand Jury Finding 9F.1:** Stockton has moved the code enforcement department into a section of the Stockton Police Department. This enables a response team to quickly address areas riddled with crime and blight.

**Agency Response:** *The respondent agrees with this finding. The Neighborhood Blitz Team (NBT) formed in 2014 as an innovative, proactive approach to "cleaning up" defined geographic areas in Stockton that struggle with blight and violent crime. This approach formally coupled uniformed police officers with code enforcement staff to address overall health and safety issues of these valued yet underserved neighborhoods. The new NBT strategy relied upon neighborhood services/code enforcement efforts, contemporary community policing practices, and active citizen engagement to collaboratively develop and implement comprehensive area improvement plans.*

*The NBT's mission is to improve "quality-of-life" issues within specified neighborhoods through the realization of the following primary goals:*

- *Reducing crime and blight*
- *Strengthening economic viability*
- *Building trust with communities through partnerships*
- *Fostering community pride and participation*
- *Improving the physical characteristics of each focus area*
- *Decreasing the incidence of vacant homes*
- *Building the sustainable resources that are needed and desired by the community*

*The first phase of the NBT strategy was completed by late 2017. Phase I involved an initial 90-day intensive, community-driven police and code enforcement effort in each of six focus areas throughout the City. Partnerships with other City departments and outside agencies were leveraged to expand resources. Meetings were held, at neighborhood venues, to give a voice to residents and neighborhood leaders and to formulate plans to reduce crime/blight, strengthen economic viability, and foster neighborhood pride. As the NBT completed those plans and transitioned out of each area and into the next, some level of resources remained behind, to encourage and empower area residents to maintain and increase the positive outcomes achieved within their neighborhoods.*

*During NBT Phase I, the City of Stockton Neighborhood Services Section (NSS) inspected 1,858 parcels, including 2,470 residential units. NSS staff identified violations at 1,226 locations and worked with occupants and/or owners to bring them into compliance. Each area was provided a Clean-up Day, and approximately 40 tons of unwanted items were removed. Conservation Corps staff assisted many elderly and disabled individuals who were unable to remove their own debris. These combined efforts greatly reduced blight in all six focus areas. Each focus area also experienced a significant decrease in violent crime and has since sustained a level of reduced overall crime.*

*In 2018, the NBT evolved into the Neighborhood Betterment Team and began Phase II. Phase II provides a longer-term approach to sustain the progress achieved in these focus areas and continues to improve the quality of life for these residents and business owners.*

*Phase II extends the program's emphasis to include the leveraging of partnerships for areas outside of our direct control such as employment, education, and health care.*

**2017-2018 Grand Jury Finding F.9.2:** Stockton has implemented a number of proactive code enforcement programs that respond to code violations with a neighborhood focus.

***Agency Response:*** *The respondent agrees with this finding. The Police Department's NSS, Code Enforcement has taken a proactive approach in addressing those neighborhoods that are in the most need of attention and services by conducting five proactive large-scale sweeps annually. Each sweep consists of an average of 1,100 property inspections and a Saturday cleanup. Saturday cleanups allow residents in the designated area a place to dump trash and debris, free of charge. The NSS can assist those that are in need, such as the elderly and disadvantaged, in removing items from their property for disposal. The NSS is currently working on two separate grants to assist in debris disposal, education, and enforcement. In 2017, the NSS resolved 7,923 cases.*

*In addition, the City has taken a proactive approach to address those properties that are at risk to cause or have a catastrophic event. The purpose of the Stockton's Top Offending Properties (STOP) is to address the top ten properties within the city of Stockton. These have been identified as having a combination of excessive calls for service, crime, blight, and dangerous conditions. The team consists of the Police Department, Community Development Department, Fire Department, and City Attorney's Office. The STOP team uses numerous tools and resources to obtain compliance.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **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 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).

## Exhibit 1 – City of Ripon

### BACKGROUND

To provide some context for its response, the City has never had a full-time staff person assigned to conduct code enforcement activities and the City Council would note that total staff hours assigned to code enforcement activity in Ripon has increased since before the recession. Prior to the recession, the City's Planning and Community Development Director was assigned the part-time responsibility of conducting code enforcement activities. As the economy has improved and the workload of the City's Planning and Community Development Director increased, a Community Service Officer from the Ripon Police Department was assigned to work under the Planning and Community Development Director.

The number of hours allocated to code enforcement activities by staff is directly related to the need. Code enforcement activity in the City of Ripon is primarily investigated on a complaint driven process, but the City's approach becomes much more proactive when a risk to public safety is present. An example of times when the City's Code Enforcement Officer is proactive is weed abatement. Before the heat begins drying weeds in empty lots increasing chances of a fire, code enforcement staff sends out letters notifying property owners of the need to remove the weeds.

In 1999, the Neighborhood Code Compliance committee was established pursuant to Chapter 1.10 of the Municipal Code. This committee is made up of code enforcement staff, Building Official, Planning and Community Development Director, Fire Chief, Police Chief, City Attorney, and a Councilmember. The committee meets from time to time (on average, approximately four times each year since its inception) to review code enforcement matters and provide guidance and recommendations as to appropriate strategies and remedies to obtain compliance. The following is a summary of code enforcement cases the City has taken action on over the last 5 years:

2017: 158  
2016: 144  
2015: 156  
2014: 142  
2013: 144

The number of code enforcement actions taken in the last 5 years is fairly consistent and does not indicate an increasing trend, nor the need to add additional code enforcement staff at this time.

## Exhibit 2 – City of Lathrop

### LATHROP MUNICIPAL CODE

#### TITLE 1 GENERAL PROVISIONS

##### Chapter 1.2 Administrative Enforcement Procedures

#### **1.12.340 Administrative hearing procedures.**

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This section establishes the procedures for the use of administrative hearing officers and the procedures for governing administrative hearings.

A. Qualifications of Administrative Hearing Officer. The city attorney shall develop and the city council shall ratify, rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the city as administrative hearing officers.

1. Candidates for the position of administrative hearing officer shall meet one of the following minimum qualifications:

a. Employed by a municipality other than the city of Lathrop as a city attorney, assistant city attorney or deputy city attorney.

b. Employed by a municipality other than the city of Lathrop as a code enforcement manager or code enforcement supervisor.

B. Appointment of Administrative Hearing Officer. The city attorney shall develop and the city council shall ratify policies and procedures relating to the appointment and compensation of hearing officers. Hearing officers presiding at administrative hearings shall be appointed and compensated by the city manager or city manager's designee. The employment, performance evaluation, compensation and benefits of the administrative hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines or other compensation upheld by the administrative hearing officer.

1. Hearing officers shall be compensated by a reciprocal services agreement whereas the city of Lathrop will provide like services to the agency of the individual acting as administrative hearing officer on behalf of the city of Lathrop.

2. Terms of any reciprocal services agreement for hearing officer services shall be approved by the city manager or city attorney.

C. Disqualification of Hearing Officer. Any person designated to serve as an administrative hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of a hearing officer shall be promulgated by the city attorney and ratified by the city council.

Any party may petition the city manager to disqualify a designated hearing officer after receipt of a notice indicating the identity of the hearing officer or discovering facts which establish grounds for disqualification. The petition must be filed immediately with the city manager upon discovery of such facts.

The city manager shall determine whether to grant the petition for disqualification. A written statement of the facts and reasons for the determination shall be incorporated into the administrative record for the hearing. The decision of the city manager may be appealed to the city council within ten (10) days' notice of the decision.

If a substitute is required for a hearing officer due to disqualification or unavailability, a substitute shall be appointed by the city manager in accordance with these rules and regulations.

D. Powers of Hearing Officer. The hearing officer has the authority to do the following:

1. Administer oaths;
2. Conduct a pre-hearing conference to deal with such matters as exploration of a settlement, preparation of stipulations, clarification of issues and other matters;
3. Continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded;
4. Issue subpoenas in accordance with this section. Upon receipt of a written request which is submitted no later than five days before the hearing, the hearing officer shall subpoena witnesses, documents and other evidence where the attendance of the witness of the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The city attorney shall develop policies and procedures relating to the issuance of subpoenas in administrative hearings, including the form of the subpoena and related costs;
5. Maintain continuing jurisdiction over the subject matter of an administrative hearing for the purpose of granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist, granting a new hearing;
6. Require the posting of a performance bond or some other equivalent means of guaranteeing that compliance will occur, if necessary;
7. Approve any settlement voluntarily entered into by the parties. (Ord. 16-364 § I; Ord. 07-267 § 1; Ord. 98-156)

#### **1.12.350 Procedures for requesting an appeals hearing**

A. A person served with one of the following documents, order or notices may file an appeal within ten (10) calendar days from the service of the notice:

1. Any civil penalty notice and order issued;
2. An administrative citation issued pursuant to Sections 1.12.130 and 1.12.140;
3. An application for a waiver of fees.

B. The appeal shall be made in writing stating the grounds for the appeal and filed with the director on or before the tenth day after service. (Ord. 98-156)

**1.12.360 Procedures for notification of administrative hearing.**

A. Where an administrative remedy or proceeding provides for an appeal procedure, the director shall request the city attorney to appoint a hearing officer and to schedule a day, time and a place for the hearing.

B. Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the responsible person.

C. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the city attorney.

D. The notice of hearing shall be served by any of the methods of service listed in Section 15.36.050. (Ord. 98-156)

**1.12.370 Procedures at administrative hearing.**

A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the city attorney.

B. The city bears the burden of proof at an administrative hearing to establish the existence of a violation of this code or applicable state codes.

C. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

E. Both the city and the party whose property and/or actions are the subject of an administrative hearing are entitled to representation by legal counsel. If the party whose property and/or actions are subject to the hearing is to be represented by an attorney, written notification of the attorney's name, address, and phone number must be supplied immediately to the city department which is holding the hearing. Upon notification by the other party of legal representation, the city department may contact the city attorney's officer to request representation at the hearing. Thereafter, all contact or communication should be made by the parties' attorneys. (Ord. 07-267 § I; Ord. 98-156)

**1.12.380 Failure to attend administrative hearing.**

Any responsible person who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that the hearing was properly noticed. (Ord. 98-156)



**Follow-up Report to the  
2017-2018 San Joaquin County Civil Grand Jury**

**Case #0417**



**Office of Emergency Services  
Operational Assessment**

**Preface**

This report contains the responses to the 2017-2018 San Joaquin County Civil Grand Jury report regarding the San Joaquin County Office of Emergency Services (OES). This follow-up report focuses on the 2017-2018 Grand Jury findings and recommendations, as well as the County's responses, which are presented verbatim in this report. The 2018-2019 Grand Jury follow-up determinations are presented after the County's response to each recommendation.

A complete complete copy of the original report and the County's response may be found on the San Joaquin County Grand Jury website at: <https://www.sjcourts.org/grandjury/>.

**Summary**

The 2017-2018 Grand Jury's investigation into the San Joaquin County Office of Emergency Services (OES) began as a result of concerns regarding the level of emergency outreach efforts. Early interviews revealed the existence of a consultant's report on the Emergency Operations Plan (EOP), which is a major component of the County's emergency response efforts. After reviewing the report, the focus of the investigation expanded to include the deficiencies it identified.

## Method of Follow-Up Investigation

The current Grand Jury reviewed the original 2017-2018 report #0417, “Office of Emergency Services Operational Assessment.” The Grand Jury interviewed the Director of the San Joaquin County General Services Department, who is also the Director of Emergency Services, and attended OES stakeholders meetings. The mandatory responses to the findings and recommendations were reviewed to determine:

- If the agency’s responses were complete and comprehensible;
- If the agency would implement the recommendations within the stated deadlines; and
- If confirmation was necessary. Confirmation could include written documentation, interviews or site inspections.

## Glossary

- **Annex:** Refers to a separate category, element, or addition to a plan or document, specifically the EOP.
- **Crosswalk:** A table that shows the relationship between two other tables.
- **EOP:** The Emergency Operations Plan describes the County’s incident management structure, community engagement, continuity of government, and critical components of the incident management structure. The EOP strategically outlines the County’s response to all emergency situations. The EOP provides generalized response instructions, while specifics are addressed in EOP Annexes and Standard Operation Procedures.
- **FEMA:** Federal Emergency Management Agency.
- **MOU:** Memorandum of Understanding; an agreement between two or more parties.
- **Stafford Act:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Stafford Act is a 1988 amended version of the Disaster Relief Act of 1974. It is designed to bring an orderly and systematic means of federal natural disaster assistance for state and local governments in carrying out their responsibilities to aid citizens.
- **Stakeholders:** Participants or entities who have an interest in the success of a specific plan.
- **Tetra Tech:** Consultant hired by the San Joaquin County Board of Supervisors to provide an assessment of the County’s emergency preparedness.

## Summary of Responses and Grand Jury Conclusions

Respondent	Finding #	Response	Rec #	Response	Grand Jury Conclusion	
					Comments	Conclusion
San Joaquin County	F1.1	Partially Disagree	R1.1.1	Implemented		No further action taken
			R1.1.2	Implemented		
	F1.2	Agree	R1.2.1	Will be implemented	Full Implementation by December 2019	No further action taken
			R1.2.2	Will be implemented		Further action required
	F2.1	Disagree	R2.1	Will be implemented		No further action taken
	F3.1	Agree	R3.1	Will be implemented	Scheduled completion December 2019	Further action required
	F4.1	Disagree	R4.1	Implemented		No further action taken
	F5.1	Agree	R5.1.1	Implemented		No further action taken
			R5.1.2	Implemented		No further action taken
			R5.1.3	Implemented		No further action taken
			R5.1.4	Will be implemented		No further action taken
	F6.1	Agree	R6.1	Partially implemented		No further action taken
	F7.1	Partially disagree	R7.1	Will be implemented	Scheduled completion March 2020	Further action required

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

### 1.0 EOP Assessment Plan

**2017-2018 Grand Jury Finding F1.1:** Elected officials were not adequately informed of the final Tetra Tech assessment.

**Agency Response:** *Partially Disagree.*

*In the 2015-2016 proposed budget, the County Administrator received Board of Supervisors approval to conduct an organizational study of the OES and an assessment of the County's emergency preparedness. In a memorandum dated March 19, 2018 from Marcia Cunningham, Director of Emergency Services to the Board of Supervisors regarding San Joaquin County Emergency Operations Plan, Ms. Cunningham provided an update of the activities that have been in process as they related to the Executive Summary from the Emergency Operations Plan Assessment Report and Recommendations as prepared by an outside consultant. The document lists the ten key findings, their associated recommendations and contains a brief status of each item.*

**2017-2018 Grand Jury Recommendation R1.1.1:** By July 31, 2018, the county's elected officials be briefed by the county administrator on the Tetra Tech assessment and the plan for completion.

**2017-2018 Grand Jury Recommendation R1.1.2:** By September 30, 2018, the county's elected officials be briefed by the county administrator on the OES implementation progress.

**Agency Response R1.1.1 and R1.1.2:** *Has been implemented.*

*The County's elected officials and the County Administrator have been briefed by the General Services Director (Director of Emergency Services), and by the Deputy Director of Emergency Operations during the 2018-2019 final budget hearing on implementation and progress.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Finding F1.2:** Since November 2016 only one of ten recommendations has been implemented, leaving the county with an inadequate plan.

**Agency Response:** *Agree.*

**2017-2018 Grand Jury Recommendation R1.2.1:** By September 30, 2018, the Office of Emergency Services develop a plan to carry out Executive Summary Key Findings and

Recommendations as found in the Tetra Tech assessment and include project deadlines, additional resources, staff, and funding necessary to complete the tasks.

***Agency Response:*** *Will be implemented. The Tetra Tech contractor reviewed approximately 277 documents during their formal process. The Emergency Operations Plan is a comprehensive document that outlines policy and processes in place within a county while adhering to local, state and federal directives and guidance. The consultant's review addressed more than 90 industry standards and best practices for disaster recovery and emergency management. While the document states the findings were reported in October 2016, they were delayed to mid-December 2016 due to the contractors' prior emergency commitments to assist during a hurricane in the Southeast. The final report was delivered in February 2017.*

*The final report from Tetra Tech highlighted ten key findings. These included:*

- 1. The EOP and annexes should be updated to a consistent hierarchy and format.*
- 2. Plans should be consolidated within a recommended hierarchy and their content streamlined.*
- 3. Development of regular and sustained methods to socialize the EOP to County staff and key stakeholders to ensure the familiarity and understanding of the plan.*
- 4. The EOP should reference current legal authorities and references to key response partners should be updated throughout the document.*
- 5. The inclusion of and compliance with federal standards must be acknowledged throughout all emergency plans.*
- 6. Memoranda of Understanding (MOU) should be reviewed for completeness and expiration.*
- 7. The Chairman of Board of Supervisor's role as the designated Director of Emergency Services should be changed to designate a chief executive or the County Administrator to leverage their authority better.*
- 8. Many current and affiliated annexes include incorrect or outdated information or are missing critical information. Should develop a standardized format for all Emergency Support Functions that follow federal guidelines and proactively transition to alignment with the federal standard.*
- 9. The County relies heavily on the American Red Cross. Need to create a formal and detailed County-based mass care plan with transition procedures between organizations.*
- 10. Disaster Recovery plans are dated and incomplete.*

*Following the final EOP Report delivered by Tetra Tech, the Director of General Services assigned the former Director of Emergency Operations the task of updating the EOP to meet the consultant's recommendations. In December 2017, the former Director of Emergency Operations vacated the position leaving the work unfinished. The Director of General Services took this opportunity to have the position reviewed by Human Resources and*

*ultimately reclassified by board order (B-18-29) on January 9, 2018, as the Deputy Director General Services – Emergency Operations.*

*At the same time, the County Ordinance Code Civil Defense and Disaster General Regulations was amended to reflect the suggestions in item #7 (above) of the consultant report. In the Ordinance Code amendment, the Director of General Services was appointed as the Director of Emergency Services, a role formerly held by the Chair of the Board of Supervisors. Also, the position of Deputy Director General Services – Emergency Operations was developed and assigned the working title of Director of Emergency Operations. The Director of General Services appoints this new position.*

*On April 2, 2018, a new Deputy Director General Services – Emergency Operations was hired. Since her arrival, she has begun to develop a comprehensive plan to complete the other nine outstanding items on the Tetra Tech consultant list. The plan to carry out the Executive Summary Key Findings and Recommendations in the Tetra Tech assessment will be completed by the August 31, 2018, recommendation.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R1.2.2:** By December 31, 2018, the OES fully implement the above plan.

**Agency Response:** *Will be implemented.*

*As noted above, the new Deputy Director General Services – Emergency Operations has assumed the leadership role and has begun to develop a comprehensive plan to complete the outstanding items on the Tetra Tech assessment. However, in light of the volume of plans that must be updated and MOU's that must be executed by several key stakeholders, a December 31, 2018, deadline is far too aggressive to ensure all outstanding items are completed successfully.*

*Development a new EOP, and its 30 supporting annexes, will be a comprehensive and lengthy task. The EOP is the basic document; however, the supporting annexes building upon the EOP. To be developed in the method prescribed by the consultant that is consistent with FEMA guidance and standards, it requires the detailed involvement of multiple County stakeholders in each of the 15 specific response functions, including but not limited to health care services, fire, law, public works, communications, and transportation.*

*For example, FEMA Guidance – Comprehensive Preparedness Guide 101, V2, outlines six steps in the planning process to develop an effective EOP. The development of one annex can take up to nine months to complete. The Tetra Tech report includes a timeline that is estimated with each of the six steps listed below:*

1. *Form a Collaborative Planning Team (one month)*
2. *Understand the Situation (one month)*
3. *Determine Goals and Objectives (one month)*
4. *Plan Development (two months)*
5. *Plan Preparation, Review and Approval (one month)*
6. *Plan Implementation and Maintenance (three months)*

*Understanding that each of these pieces includes one or more meetings and a significant time commitment for the development of one of the plans.*

*Each component of an EOP is required to be reviewed and revised at a minimum of once every two years, making the whole process cyclical and unending. Based upon the time and involvement by many departments throughout the County to complete the entire process, it is not expected to be completed for at least a full year, with another year for full implementation of the EOP to include training and exercising of County staff to ensure socialization of the EOP to county staff.*

*Therefore, a realistic target date is December 2019, to implement the full plan to have the updated EOP in place.*

### **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that by December 31, 2018, OES fully implement an updated EOP. The San Joaquin County Board of Supervisors agreed with the recommendation but stated that December 2019 was a more realistic target date. On April 23, 2019, the Board of Supervisors approved the Basic EOP, but full implementation of the plan is not expected to occur until the end of 2019.

**2018-2019 Grand Jury Finding F1:** OES is in the process of implementing a revised EOP.

**2018-2019 Grand Jury Recommendation R1:** By December 31, 2019, OES fully implement an updated EOP.

## **2.0 Memorandum of Understanding**

**2017-2018 Grand Jury Finding F2.1:** Without a physical presence in San Joaquin County, the American Red Cross may have logistical delays and problems delivering mass care services.

**Agency Response:** *Disagree.*

*There is a presence within San Joaquin County for the American Red Cross. The City of Stockton is one city within Red Cross Central California Region Sierra-Delta Chapter that is equipped with a Disaster Emergency Response Trailer. The vehicle is supplied with enough cots and supplies to accommodate 400 people at shelters. Additionally, the American Red Cross has a Disaster Action Team that shows up upon request to assess the situation and ensure that all the needs are met. If more resources are needed the American Red Cross will coordinate and bring in additional services/supplies from other regions/chapters. They are ready to deploy within a few hours of a disaster to help. Shelters locations have already been designated throughout San Joaquin County.*

*There currently is a Memorandum of Understanding in place with the American Red Cross. Despite the memorandum being out-of-date, we have been ensured by members of the Sierra-Delta Chapter American Red Cross that the ARC is available to assist when needed. For example, a fire in a Boarding House in Lodi on June 27, 2018, displaced 47 residents. The Staff of the ARC were in Lodi within a few hours and ensured sheltering for all displaced residents at a nearby church for the duration of the night. Similarly, in February, another fire also brought members of the ARC to provide shelter services for several people at the Lodi Grape Festival grounds. These recent examples demonstrate that despite having a current memorandum, the services are still available at a moment's notice.*

**2017-2018 Grand Jury Recommendation R2.1:** A provider or providers of mass care services be identified and appropriate contracts or MOU's be signed by December 31, 2018, and documentation provided to the Grand Jury.

**Agency Response:** *Will be implemented.*

*Tentative goal for completion is May 2019. The Shelter Annex will be developed utilizing best practices and guidance developed by FEMA and will take about nine months from August 9, 2018, kick-off to complete.*

*The American Red Cross (ARC) of Sierra -Delta serves an eleven county area, including San Joaquin County. Volunteers and staff are prepared to respond around the clock to assist and provide services when and where needed. The staff of the ARC actively participate at the State's Emergency Operations Center when a disaster occurs in the State that requires sheltering or family reunification needs. However, OES recognizes that in the event of a large-scale event, the ARC may not have enough resources available to provide all required sheltering services. It is for this reason that the staff of the OES agency has begun working with Human Services Agency, Health Care Services, and a number of other county agencies to develop a comprehensive sheltering plan that will take into account the needs of the county population to include individuals with special needs and people with access and functional needs. Also, needs will be evaluated, and new MOAs will be developed and executed as appropriate.*

*The County has additional resources through the California Department of Social Services (CDSS). The three programs that the California Department of Social Service's, Disaster Services Section are responsible for are supporting counties' mass care and shelter programs in California, state and federal grant recovery programs for individuals and households, and Emergency Repatriation. They are able to provide mass care teams to assist with coordinating food services, and provide emergency service teams from the State level. These program responsibilities are delegated to the Department through an Administrative Order from the California Governor's Office of Emergency Services, issued under the authority of Executive Order W-9-91.*

- **The 2018-2019 Grand Jury verified that the MOU with the American Red Cross was approved at the May 14, 2019 Board of Supervisors meeting and determined to take no further action.**

### **3.0 Tetra Tech, Inc. EOP Assessment Crosswalk**

**2017-2018 Grand Jury Finding F3.1:** In total, nearly half or 48% of all the plans are deficient and require improvements to meet compliance standards.

**Agency Response:** *Agree.*

*As noted previously, approximately 30 plans are included in the crosswalk. With the update of the Basic EOP section, a good portion (approximately 52) of those items marked "N" for "Needs Improvement" and "P" for "Partially Meets" will meet the "S" for "Satisfactory" requirements. However, until all of the plan sections are completely revisited, the remaining 25 deficiencies will not be corrected. Approximately 13 of the final 25 deficiencies apply to nearly all documents.*

**2017-2018 Grand Jury Recommendation R3.1:** By December 31, 2018, correct all the deficiencies listed as "N" and "P" in the Crosswalk with confirmation provided to the Grand Jury.

**Agency Response:** *Will be implemented. As noted earlier this is a lengthy process that involves coordination of multiple County agencies to complete the revision of the entire Emergency Operations Plan. The annexes will be developed utilizing best practices and guidance developed by FEMA and will take about nine months. Therefore, in December 2019, represents a more realistic target.*

## **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that by December 31, 2018, OES correct all deficiencies listed as “N” for “Needs Improvement” and “P” for “Partially Meets in the EOP Assessment Crosswalk with confirmation provided to the Grand Jury. The San Joaquin County Board of Supervisors agreed with the recommendation, but stated that December 2019 was a more realistic target date.

**2018-2019 Grand Jury Finding F1:** OES is in the process of revising the EOP Assessment Crosswalk.

**2018-2019 Grand Jury Recommendation R1:** By December 31, 2019, correct all the deficiencies listed as “N” and “P” in the Crosswalk with confirmation provided to the Grand Jury.

### **4.0 Grant Funding**

**2017-2018 Grand Jury Finding F4.1:** If the grants were unavailable, no contingency plan is in place to provide alternative funding sources.

**Agency Response:** *Disagree.*

*The County’s Annual budget process provides the opportunity to identify all budgetary needs. One-time costs can be requested as a supplemental request during this process. Throughout the Fiscal Year budget monitoring, quarterly reports, mid-year reports, and year-end projections allow for budget adjustments when additional funds are needed and justified.*

*Immediate or unexpected needs can be presented to the Board of Supervisors at any of the scheduled Board meetings. At this time, there is no immediate need to ask for additional funding or contingency. In addition during an emergency, the Director of Operations has the authority to make a financial decision to address an immediate need during an activation.*

*Each local jurisdiction, city, and special district within the county are required under the Federal Robert Stafford Act and subsequent amendments, to develop comprehensive preparedness and response plans, programs, and capabilities, to include increased protection by obtaining insurance coverage to supplement or replace government assistance, ensuring hazard mitigation measures and developing regulations to reduce losses associated with disasters.*

**2017-2018 Grand Jury Recommendation R4.1:** Create and implement a contingency plan for providing alternative funding sources by December 31, 2018.

**Agency Response:** *Has been implemented.*

*Immediate or unexpected needs can be presented to the Board of Supervisors at any of the scheduled Board meetings. At this time, there is no immediate need to ask for additional funding or contingency. In addition during an emergency, the Director of Operations has the authority to make a financial decision to address an immediate need during an activation.*

*Even though the Director of OES is part of the County, the respective agencies who have the risk of potential emergencies should prepare by setting aside resources. San Joaquin County cannot speak on behalf of these agencies.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **5.0 Public Outreach**

**2017-2018 Grand Jury Finding F5.1:** These figures indicate that, on average, fewer than fifteen hours per month were spent on outreach activities. This is less than adequate to fully inform the 726,105 county residents about disaster preparedness.

**Agency Response:** *Agree.*

**2017-2018 Grand Jury Recommendation R5.1.1:** EOS increase its outreach efforts to include sharing emergency preparedness reminders regularly on social media Facebook groups such as Memories of Stockton, Stockton Midtown Community Watch, and In and About San Joaquin County.

**Agency Response:** *Has been implemented.*

*The OES staff is made up of six full-time staff: one Deputy Director; one Senior Emergency Planner; two Emergency Planners; one Accounting Technician and; Senior Office Assistant. Public outreach efforts have increased since the addition of the New Deputy Director. OES has a Facebook page, a Twitter profile and has recently joined the neighborhood application Next Door.*

*For the months of June and July 2018, on Facebook, OES increased page traffic by 66% reaching 108,592 users; an increase of 620% over previously stagnant months. OES increased page followers adding 300 new followers (to a total of 8,564 followers as of the writing of this report).*

*OES has 1,753 followers on its Twitter account. Typically, posts from Facebook are replicated in some fashion to meet Twitter requirements. In the past month, OES Twitter followers have increased by 31. Much of this was driven by tweets regarding excessive heat*

*over a single weekend, with retweets helping to generate 429 additional profile visits from non-followers.*

*OES recently added the new neighborhood application, Next Door. This application targets small neighborhoods and allows people to post items on lost pets, making reputable business connections, or organizing neighborhood watch groups. OES has been given permission to post information to the entire County at large, or by neighborhood. So far, postings have been around extreme heat alerts to the entire county, reaching 68,331 members. The number of members in San Joaquin County, increase by 610 in the past two weeks.*

*OES is committed to continuing outreach to other groups via its social media pages including the page groups recommended by the Grand Jury.*

*Additionally, OES staff will continue to participate in neighborhood watch programs, business preparedness workshops and fairs to increase outreach to the community; making the most of the small staff and available resources.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R5.1.2:** OES partner with Neighborhood Watch programs to provide preparedness education with each newly-formed group.

**Agency Response:** *Has been implemented.*

*OES will reach out to the Cities, Law Enforcement, Neighborhood Advisory Board, and Fire Departments to work together to pursue adding preparedness as part of the Neighborhood Watch Program. Also, OES will also pursue being included at the Neighborhood Watch Group meetings (they meet twice a year) to share information related to preparedness. OES will participate in Stockton's National Night Out on August 7, 2018; OES will staff a booth at the event and materials shared on preparedness.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R5.1.3:** OES create a comprehensive educational outreach message using both paid and free media formats.

**Agency Response:** *Has been implemented.*

*OES participates in many outreach events such as August's Annual National Night Out, Emergency Preparedness Month (September), Great ShakeOut (October), and Flood Preparedness Week (October). OES has committed to participating in the San Joaquin County Department of Child Support Services 3<sup>rd</sup> Annual Block Party in August 2018, where OES staff will provide emergency preparedness materials at a table. OES also provides staff upon request to participate in private corporate Disaster Preparedness Workshops; bookings for fall 2018 include LODI SERVPRO and Tracy Depot. Micke Grove Zoological Society hosts an annual event "HalloWILD" in October at the Micke Grove Zoo that is highly attended by families; OES will supply informational handouts at the 2018 event.*

*Additional outreach methods will include increased use of social media, updating the website to be user-friendly and easy to navigate. Information pertinent to the citizens will be provided through a new website designed specifically to meet this need. The technical information will remain on a separate site.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R5.1.4:** OES insert preparedness information including evacuation maps in taxpayers' property tax bills.

**Agency Response:** *Will be implemented.*

*Requires further analysis to determine the timeframe of six months for implementation and if this is achievable.*

*OES will work closely with Treasurer/Tax collectors to evaluate this option, estimate cost and develop a plan for implementing during 2018-19. If viable, OES will work towards including this in the April 2019 Property Tax Notices.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **6.0 County Staff Familiarity**

**2017-2018 Grand Jury Finding F6.1:** County staff familiarity with and understanding of the EOP is minimal and hampers an effective response in a disaster.

**Agency Response:** *Agree.*

**2017-2018 Grand Jury Finding F6.1:** By December 31, 2018 develop a regular and sustained method for the OES to interact with county staff and key stakeholders on the EOP plan.

**Agency Response:** *Partially implemented.*

*Upon completion of the EOP, the updated information will be integrated with new employee presentations as part of the Emergency Preparedness and Disaster Service Worker Training. Updated training and exercise plans will be revised and will reflect a five-year training and exercise plan that involves most response entities at least once every three years and tests current plans. Additionally, in July, the Department Heads were briefed on the current status of the EOP Base Plan Draft and were provided a brief overview on the key highlights of the Heat Annex which was completed in late May. The five-year training and exercise plan should be completed by December 31, 2018.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **7.0 Disaster Recovery**

**2017-2018 Grand Jury Finding F7.1:** The current county disaster recovery plan is outdated and jeopardizes recovery efforts.

**Agency Response:** *Disagrees partially, the plan need to be updated, but disagree that it jeopardizes recovery efforts.*

**2017-2018 Grand Jury Recommendation R7.1:** By December 31, 2018 develop a separate recovery operations plan to update and strengthen the EOP.

**Agency Response:** *Will be implemented.*

*OES will develop a Request for Proposal (RFP) for a contractor to develop a comprehensive Recovery Plan that fits into the EOP. This will likely take longer than the recommendation. A solid timeline will be developed once the RFP is completed.*

*The anticipated completion date for the RFP is November 2018. With an overall implementation timeframe of July 2019.*

## **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury found that the County's disaster recovery plan is out of date and recommended that a separate recovery operations plan be developed to update and strengthen the EOP. The Grand Jury confirmed the approval and adoption of the Basic EOP by the Board of Supervisors on April 23, 2019. The recovery operations plan is scheduled to be completed by March 2020.

**2018-2019 Grand Jury Finding F1:** The recovery operations plan has not been completed.

**2018-2019 Grand Jury Recommendation R1:** By March 31, 2020, OES develop and adopt a separate recovery operations plan to update and strengthen the EOP.

### **Conclusion**

The County OES has made considerable progress in updating the mandatory emergency plans and agreements that support the coordination of County emergency services. They are also reaching out to stakeholders. However, additional work is still needed. The County staff also realizes that maintaining these documents will be an on-going process and appear to be establishing procedures to do so.

### **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 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 90 days of receipt of the report.

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

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

**Follow-up Report to the  
2017-2018 San Joaquin County Civil Grand Jury**

**Case #0817**



**Shining Light into the Dark Corners**

**Is the Office of Violence Prevention Worth the Money?**

**Preface**

This report contains the responses to the 2017-2018 San Joaquin County Civil Grand Jury report regarding the City of Stockton's Office of Violence Prevention (OVP). This follow-up report focuses on the 2017-2018 Grand Jury findings and recommendations, as well as the agency's responses, which are presented verbatim in this report. The 2018-2019 Grand Jury follow-up determinations are presented after the agency's response to each recommendation.

A complete copy of the original report and the agency's responses may be found on the San Joaquin County Grand Jury website at: <https://www.sjcourts.org/grandjury/>

**Summary**

As a result of hearing both praise and criticism of the City of Stockton's OVP, the 2017-2018 Grand Jury decided to open an investigation.

The mission of the OVP is to have its outreach workers, known as Peacekeepers, collaborate with government, community-based, and faith-based organizations to:

- Reduce gang-related violence in Stockton,
- Reach out to gang-related youth and young adults, and
- Provide resources for youth to avoid a gang lifestyle and to become productive members of society.

The Peacekeepers “respond to areas where violent crimes have occurred to talk with the youth and their families to prevent retaliation”. They mentor youth and young adults with the highest risk of gang involvement, particularly serious gun-related violence, and provide positive alternatives for a healthier, non-violent lifestyle. The Peacekeepers have played a key role in local efforts to reduce gang homicides.

The major criticisms of the program were a lack of accountability to the citizens of Stockton for its spending and that no data was provided to demonstrate the program’s effectiveness in reducing gun violence.

## **Glossary**

- **Data and Donuts Community Meetings:** Community meetings hosted by staff from the Office of Violence Prevention to present statistical information regarding their accomplishments during the past quarter. The statistical information is also posted on the City’s website.
- **Call-in:** Individuals from groups that are identified as committing the most violence are invited to attend a meeting where they are presented with options to their current lifestyle. Presenters represent groups including clergy, parolees, and law enforcement. Supportive services, including job search and housing assistance, are also available.

## **Method of Follow-Up Investigation**

The current Grand Jury reviewed the original 2017-2018 report #0817, “Shining Light into the Dark Corners; Is the Office of Violence Prevention Worth the Money?”, attended a Data and Donuts community meeting, and a dress rehearsal for a call-in. Grand Jury members met with the Peacekeeper’s Community Engagement Coordinator and the Stockton City Manager. The Grand Jury also evaluated the mandatory responses to the findings and recommendations. Responses were reviewed to determine:

- If the agency’s responses were complete and comprehensible;
- If the agency would implement the recommendations within the stated deadlines; and
- If confirmation was necessary. Confirmation could include written documentation, interviews or site inspections.

## Summary of Responses and Grand Jury Conclusions

Respondent	Finding #	Response	Rec #	Response	Grand Jury Conclusion	
					Comments	Conclusion
City of Stockton	F1.1	Partially Agrees	R1.1.1	Agrees		No further action taken
			R1.1.2	Partially Agrees		
	F1.2	Disagrees	R1.2	Partially Agrees		No further action taken
	F2.1	Disagrees	R2.1	Partially Agrees		No further action taken
	F3.1	Disagrees	R3.1.1	Disagrees		No further action taken
			R3.1.2	Disagrees		
	F3.2	Agrees	R3.2	Agrees		No further action taken
	F4.1	Partially Agrees	R4.1.1	Partially Agrees		No further action taken
			R4.1.2	Partially Agrees		
			R4.1.3	Agrees		
	F5.1	Disagrees	R5.1	Agrees		No further action taken
	F5.2	Partially Agrees	R5.2	Agrees		No further action taken
	F6.1.1	Disagrees	R6.1	Partially Agrees		No further action taken
	F6.1.2	Partially Agrees				
	F6.2	Partially Agrees	R6.2	Partially Agrees		No further action taken
	F7.1	Agrees	R7.1.1	Agrees		No further action taken
			R7.1.2	Agrees		
	F8.1	Agrees	R8.1	Agrees		No further action taken

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

### 1.0 Division of the Peacekeepers has recently occurred.

**2017-2018 Grand Jury Finding F1.1:** The division into two groups made Peacekeepers frustrated and had a negative effect on morale.

***Agency Response:*** *The respondent partially agrees with this finding. Managing change is always a challenging process. While some members of the Peacekeepers team embraced the realignment of the work, other members of the team found it more challenging. The Grand Jury Report states that the division of Peacekeepers occurred at the beginning of 2018. The realignment of Peacekeeper duties was assessed in Spring 2017 and training for Peacekeepers initiated in Summer 2017. OVP leadership analyzed the assumed impact of making change in comparison to the benefits of adjusting the program to have more impact on clients. OVP leadership also developed change management plans to address the challenges inherent in making changes. While the adjustment has been a challenge for some members of the team, this is outweighed by the benefits of exposing clients to a greater diversity of resources and the benefits of creating more intense client case management.*

**2017-2018 Grand Jury Recommendation R1.1.1:** The Grand Jury recommends the OVP reassess the division by December 31 with input from the Peacekeepers about whether it is effective.

***Agency Response:*** *The respondent agrees with this recommendation. The OVP regularly assesses all program elements to ensure that outcomes are successful. This assessment includes feedback from Peacekeepers and the full Operation Ceasefire team. The OVP will be assessing the effectiveness of the realignment of Peacekeepers as well as other factors between now and December 31.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R1.1.2:** In order for this and future policy changes to be effective and workable, the Grand Jury recommends that Peacekeepers be involved in the decision-making process.

***Agency Response:*** *The respondent partially agrees with this recommendation. As with any operation, feedback from frontline employees is invaluable. This is particularly true in the case of Peacekeepers. Peacekeeper feedback was solicited related to the realignment of Peacekeeper duties. The OVP regularly solicits feedback from Peacekeepers. However, it is the responsibility of OVP leadership and City leadership to dictate the operations and policies of the OVP at their discretion.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Finding F1.2:** The division was suggested by consultants who claim it is based on “best practices” in similar programs across the nation, but the Grand Jury found no evidence [insufficient evidence] for this assertion.

***Agency Response.*** *The respondent disagrees with this finding. The City has worked with the California Partnership for Safe Communities (CPSC) since 2012 when the Marshall Plan Stakeholder Committee and City Council recommended re-initiating Operation Ceasefire. The CPSC is the preeminent group violence reduction consultancy on the West Coast and a leading member of the National Network for Safe Communities. The recommendation from CPSC is based on an emerging best practice promoted by the National Network and modeled after comparable programs that have achieved success including Oakland, Richmond, Salinas, Los Angeles and San Jose.*

**2017-2018 Grand Jury Recommendation R1.2:** By December 31, OVP management show the evidence for the division as it goes contrary to the experience of the longer-serving Peacekeepers, and its validity is not self-evident.

***Agency Response:*** *The respondent partially agrees with this recommendation. As noted above, the OVP will be assessing the effectiveness of the realignment of Peacekeepers throughout 2018. However, there are several other program elements under evaluation within the same time period. The City will determine the correct timeline in which to evaluate program elements and report to the public. The City does commit to provide a statistical report at the conclusion of 2018 with measurement data for the OVP.*

- **The 2018-2019 Grand Jury reviewed the City’s website and found that statistical information is being posted quarterly and determined to take no further action.**

## **2.0 Disharmony exists among the Peacekeepers.**

**2017-2018 Grand Jury Finding F2.1:** Management has neither addressed the issues nor resolved them, leading to a tense office environment.

***Agency Response:*** *The respondent disagrees with this finding. OVP Management is well aware of the culture of the Peacekeepers unit. The City acknowledges that there has been disharmony and tension among the Peacekeepers at times. The work of group gun violence reduction is particularly challenging and emotional work. Peacekeepers work in tense and at times precarious circumstances while engaging the very highest risk*

*individuals in our community. OVP Management regularly addresses employee well-being, employee performance and team culture. As this topic intersects closely with personnel matters, the Grand Jury does not have full information and understanding related to the context for this finding.*

**2017-2018 Grand Jury Recommendation R2.1:** Management needs to establish a code of conduct and enforce it.

**Agency Response:** *The respondent partially agrees with this recommendation. OVP Management is responsible for enforcing the City's policies related to employee conduct. However, a code of conduct does not need to be established. City employees are subject to the conduct required by the City Charter (in particular Article X), Citywide policies (notably HR-8, HR-15, HR-30, HR-64) and OVP employees are expected to abide by the conduct outlined in the Policy & Procedure Manual for their unit. OVP Management holds employees accountable to these policies and will continue to do so.*

- **The 2018-2019 Grand Jury determined to take no further action.**

### **3.0 The OVP has offsite Management.**

**2017-2018 Grand Jury Finding F3.1:** The separation leads to a lack of close supervision.

**Agency Response:** *The respondent disagrees with this finding. The Supervisor for the Peacekeepers unit is co-located with Peacekeepers. It is the Supervisor's responsibility to supervise the daily activities of the Peacekeepers. In addition, the work of the Peacekeepers requires a majority of their time spent in the field. Daily reports and other accountability mechanisms are in place to assist in the supervision of Peacekeepers. The OVP can expect Peacekeepers to demonstrate professionalism while representing the City in the field, with appropriate follow-up and accountability from the Supervisor. It is not necessary for the OVP Manager or other OVP employees to be co-located with the Peacekeepers unit.*

**2017-2018 Grand Jury Recommendation R3.1.1:** The Grand Jury recommends that all management and staff be in one location. As Stockton has purchased a large building on the Waterfront to serve as a new City Hall, when city offices move there, the OVP should be in one office or adjacent offices.

**Agency Response:** *The respondent disagrees with this recommendation. As noted above, all OVP employees do not need to be co-located. The City will determine the most appropriate location for our staff based on a variety of criteria. Also, as noted above,*

*Peacekeepers work primarily in the field and as such can be located distinct from City Hall offices.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Recommendation R3.1.2:** The OVP Manager needs more frequent contact with the line staff.

**Agency Response:** *The respondent disagrees with this recommendation. The OVP Manager has frequent contact with the line staff. The OVP Supervisors are responsible for the supervision of line staff and communication between the Peacekeepers and other OVP staff.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Finding F3.2:** Bypassing the chain of command leads to distrust and feelings of favoritism among the Peacekeepers.

**Agency Response:** *The respondent agrees with this finding. OVP leadership regularly communicates through the chain of command to ensure that messages reach Peacekeepers and that feedback from Peacekeepers reaches leadership. The OVP Manager regularly communicates the importance of the chain of command. While options must always be available to employees to express concerns about their supervisors to City leadership or Human Resources, following chain of command leads to the best results for regular operations and communication*

**2017-2018 Grand Jury Recommendation R3.2:** Peacekeepers should use the chain of command and filter their complaints through the supervisors.

**Agency Response:** *The respondent agrees with this recommendation. As noted above, this expectation has been made clear to OVP staff. In addition, communication through the chain of command is established by City policy and is enforced accordingly within the OVP. When necessary and appropriate employees have access to management and Human Resources staff to bring up concerns that cannot be addressed by their immediate supervisor.*

- **The 2018-2019 Grand Jury determined to take no further action.**

#### **4.0 The Office of Violence Prevention has lacked metrics of success, that is, measurable objectives and outcomes.**

**2017-2018 Grand Jury Finding F4.1:** Communication with the public is not happening, causing a lack of understanding of the work of the OVP.

***Agency Response:*** *The respondent partially agrees with this finding. While there is public information available and the OVP communicates regularly with particular constituencies, dissemination of information to the community at-large can be improved. The OVP can do more to share the challenges and successes of its efforts. For that reason, the \$428,000 Board of State and Community Corrections CaiVIP grant recently awarded to the OVP includes funding for Faith in the Valley to conduct community engagement around the City's violence reduction strategy. Reinvigoration of the Community Engagement Coalition will build upon the high degree of communication that we have with our Operation Ceasefire partners. In addition, OVP has developed a web page and Facebook page to share information with the community. Furthermore, the OVP has created a summary of outreach and case management measures to share with the Measure A Advisory Committee at each meeting. The Grand Jury Report states that the Data Dashboard was created at the beginning of 2018. The Data Dashboard was developed at the beginning of 2017, with client data being tracked as of January 1, 2017. In the September 2017 Measure A Advisory Committee meeting the OVP performance management framework was presented. In February and May 2018, the summary measures were published in the Measure A Advisory Committee agenda packet for client outcomes from January 2017 to May 2018. The OVP will continue seek ways to improve communication and education.*

**2017-2018 Grand Jury Recommendation R4.1.1:** By December 31, the Data Dashboard be made available to Community-Based Organizations (CBO's) and the public.

***Agency Response:*** *The respondent partially agrees with this recommendation. Elements of the Data Dashboard are already made available to the public through regular reporting to the City's Measure A Advisory Committee. Confidential client information in the dashboard will not be made public. By December 31, the OVP will make the public Data Dashboard information more accessible on the City's web page.*

- **The 2018-2019 Grand Jury reviewed the City's website and found that statistical information is being posted quarterly and determined to take no further action.**

**2017-2018 Grand Jury Recommendation R4.1.2:** By December 31, the OVP put the Data Dashboard on the website and update it regularly.

**Agency Response:** *The respondent partially agrees with this recommendation. As noted above, by December 31, the OVP will make the public Data Dashboard information more accessible on the City's web page. This information will be updated on a quarterly basis.*

- **The 2018-2019 Grand Jury reviewed the City's website and found that statistical information is being posted quarterly and determined to take no further action.**

**2017-2018 Grand Jury Recommendation R4.1.3:** The OVP find a way to inform the public about its work on a regular basis, either via its website or reports to the city council.

**Agency Response:** *The respondent agrees with this recommendation. As noted above, there are multiple initiatives underway for improving dissemination of information to the public, including a community engagement campaign, reinvigoration of the Community Engagement Coalition, online tools, and regular reporting to the Measure A Advisory Committee. The OVP will continue seek ways to improve communication and education.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **5.0 The OVP and the Stockton Police Department hold quarterly “call-ins” under the Operation Ceasefire program.**

**2017-2018 Grand Jury Finding F5.1:** It is unclear who is in charge of running the call-ins, resulting in confusion among the CBO's.

**Agency Response:** *The respondent disagrees with this finding. The OVP Manager has specific responsibility for organizing and managing Call-ins.*

**2017-2018 Grand Jury Recommendation R5.1:** The call-ins have a clearly-designated chair, either: 1. the OVP Manager or the Police Chief, 2. both as co-chairs, or 3. another designee as chair.

**Agency Response:** *The respondent agrees with this recommendation. The Call-in co-chairs are clearly established as the Chief of Police and a Faith Leader in the community, typically a faith leader representing the Faith in the Valley coalition. The OVP Manager is the host and responsible for organizing the Call-ins, while the co-chairs facilitate the Call-in dialogue with participants.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Finding F5.2:** “Extra” attendees at the call-ins lead to consternation among the CBO representatives who attended the planning meetings about who makes the final decisions on whom to invite.

***Agency Response:*** *The respondent partially agrees with this finding. OVP leadership acknowledges that uninvited attendees can cause challenges. For that very reason, attendance is tightly monitored and controlled by the OVP Manager. Other Operation Ceasefire partners must approve any Call-in invitations through the OVP Manager. The OVP Manager may invite guests as deemed appropriate to Call-ins, and should notify community partners of attendees to reduce confusion.*

**2017-2018 Grand Jury Recommendation R5.2:** The people who plan the call-ins should keep tight control on the number of attendees with only essential CBO representatives attending.

***Agency Response:*** *The respondent agrees with this recommendation. As noted above, the OVP Manager is responsible to keep tight control on the number of attendees. This has been the practice over the past 5 years and will continue to be the practice.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **6.0 No clear system exists for meeting immediate financial needs of clients.**

**2017-2018 Grand Jury Finding F6.1.1:** No system of pre-approved expenditures exists to meet the immediate needs of clients, making it difficult for Peacekeepers to provide these needs.

***Agency Response:*** *The respondent disagrees with this finding. The City has very clear and distinct processes for procurement. In particular, the City has developed additional processes unique to the OVP to streamline and allow pre-approval for certain expenditures to allow for more timely purchases for Operation Ceasefire clients. This includes weekly trust building meals with clients, client incentives to help them become work-ready, and reimbursement for government issued documents. This has been challenging as government procurement systems should include protections to safeguard public assets. The streamlining process has been achieved by ensuring that appropriate checks and balances and controls are in place, while expediting the approval process through time commitments agreed to by the approving parties. While these processes do not meet all client needs, it allows the City to move more quickly for certain purchases while balancing stewardship of public resources.*

**2017-2018 Grand Jury Finding F6.1.2:** Peacekeepers often must rely on the willingness of Community-Based Organizations to meet clients' pressing needs.

***Agency Response:*** *The respondent partially agrees with this finding. As noted above, there are processes in place to make appropriate expenditures for Operation Ceasefire clients. City procurement processes are not always best-suited to the needs of very-high-risk clients, which can emerge rapidly. However, there are some client needs that are best met by Community-Based Organizations due to their specific mission or their ability to make timely expenditures. Because the City of Stockton does not provide funding for Community-Based Organizations in exchange for this work, the OVP strives to create productive partnerships based on the shared mission and goals of violence reduction.*

**2017-2018 Grand Jury Recommendation R6.1:** The OVP should set up an adequate fund in its budget easily accessed by the Peacekeepers with supervisors' approval.

***Agency Response:*** *The respondent partially agrees with this recommendation. The OVP has already set aside Operation Ceasefire client services funds. These funds are available to Peacekeepers through the processes already developed as outlined above. To make the funds more accessible and further streamline these processes would put at risk the controls and balances for the procurement process.*

- **The 2018-2019 Grand Jury determined to take no further action.**

**2017-2018 Grand Jury Finding F6.2:** The reimbursement for their own funds Peacekeepers spend on clients is slow and cumbersome.

***Agency Response:*** *The respondent partially agrees. Peacekeepers are well-aware of the processes and timelines for reimbursing funds spent on clients. As noted above, the City has worked to develop a streamlined reimbursement process unique to the Office of Violence Prevention. Reimbursement timelines are more timely than other work units in the City. However, it is critical to maintain appropriate approval processes and maintain other controls to ensure stewardship of public resources.*

**2017-2018 Grand Jury Recommendation R6.2:** The OVP should streamline approval of reimbursement and/or preauthorize purchases

***Agency Response:*** *The respondent agrees with this recommendation. As noted above, the City has already developed unique approval and preauthorization processes for the purpose of providing services to Operation Ceasefire clients. To further streamline these processes would put at risk the controls and balances for the procurement process.*

- The 2018-2019 Grand Jury determined to take no further action.

## **7.0 Office of Violence Prevention liaison with Community-Based Organizations is sporadic.**

**2017-2018 Grand Jury Finding F7.1:** Past conflicts have strained relations between CBO's and the OVP, causing some CBO's to have difficulty working with the OVP.

***Agency Response:*** The respondent agrees with this finding. While the OVP has developed numerous positive relationships with Operation Ceasefire partners and violence prevention partners, past conflicts did strain relations with a number of community based organizations. The OVP Manager has worked diligently over the past year to build and repair partner relationships. In addition, the OVP has hired a new Community Engagement Coordinator, who will have the specific responsibility for building partnerships.

**2017-2018 Grand Jury Recommendation R7.1.1:** The purpose of the Community Engagement Coordinator is to work with CBO's; the person hired for the position must be skilled and effective in reaching out.

***Agency Response:*** The respondent agrees with this recommendation. The role of the Community Engagement Coordinator is to build bridges. This role requires the ability to reach out, establish common ground and sustain partnerships over time.

- The 2018-2019 Grand Jury determined to take no further action.

**2017-2018 Grand Jury Recommendation R7.1.2:** The Community Engagement Coordinator must work on mending relations with the CBO's, but the OVP Manager should also be conferring often with them.

***Agency Response:*** The respondent agrees with this recommendation. As noted above, the OVP Manager has made specific efforts over the last year to build and repair partner relationships. The Community Engagement Coordinator will continue this work, and the OVP Manager will remain engaged with key partners.

- The 2018-2019 Grand Jury determined to take no further action.

## 8.0 A county-wide coalition to reduce gun violence is a possible step to bring together many agencies and organizations.

**2017-2018 Grand Jury Finding F 8.1:** Some CBO's and city officials would like to create a county-wide coalition to coordinate and improve services to reduce group gun violence.

***Agency Response:*** *The respondent agrees with this finding. The City agrees that there should be coalition partnership in support of reducing group gun violence. For that reason, the City has two gun violence reduction coalitions. First, the City and County currently have a joint firearms reduction program that consists of public safety partners. Second, Operation Ceasefire is a county-wide coalition targeting group gun violence. The OVP has developed partnerships with key stakeholders and welcomes new partners that have the skills and resources for working with very-high-risk clients. Furthermore, the Community Engagement Coalition of the OVP is designed to foster broader violence reduction partnerships across the spectrum of risk factors impacting at-risk individuals in the community.*

**2017-2018 Grand Jury Recommendation R8.1:** The OVP Manager should bring this idea to city and county government agencies to see if there is merit to the idea, if the time is right to move ahead with this proposal, and if there is appropriate and adequate interest among the various stakeholders.

***Agency Response:*** *The respondent agrees with this recommendation. As noted above, the Operation Ceasefire partnership is a county-wide group gun violence reduction coalition. The OVP Manager regularly engages with City departments, County agencies and community based organizations to explore how further partnerships could be developed. For some organizations, as suggested by the Grand Jury, timing is a critical factor. As the Operation Ceasefire work develops, the missions and work of different partners becomes more, or less, relevant and the partnerships evolve and expand. The OVP continuously seeks out additional partnership opportunities for this coalition.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## Conclusion

The Office of Violence Prevention has increased its efforts to build partnerships and gain support within the community. Peacekeepers work with very high-risk individuals; 80% have been a victim of gun violence. During 2018, the OVP served 80 clients. Fifty-five of these clients were assisted with job placement. They also conducted 29 mediations which prevented imminent violence from occurring. Information posted quarterly on the City's website highlights OVP's achievements which should increase community awareness and support.

## **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 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).

**Follow-up Report to the  
2017-2018 San Joaquin County Civil Grand Jury**

**Case #0917**



**San Joaquin County Municipality Ethics Policies**

**Preface**

This report contains the responses to the 2017-2018 San Joaquin County Civil Grand Jury report regarding the ethics policies of the County and the cities within its geographical boundaries. This follow-up report focuses on the 2017-2018 Grand Jury findings and recommendations, as well as the agencies' responses, which are presented verbatim in this report. The determinations of the 2018-2019 Civil Grand Jury are presented after the agencies' response to each recommendation.

A complete copy of the original report and the agencies' responses may be found on the San Joaquin County Grand Jury website at <https://www.sjcourts.org/grandjury>.

**Summary**

As the result of a complaint describing a perceived conflict of interest in one of the cities in San Joaquin County, the 2017-2018 San Joaquin County Civil Grand Jury investigated the ethics policies of San Joaquin County and all of the cities within its geographical boundaries. The Grand Jury interviewed 33 officials representing eight municipalities in the County. The Grand Jury found that four of the eight municipalities did not have a written and approved ethics policy for elected officials and a majority did not have a policy for appointed officials and senior staff.

## Method of Follow-Up Investigation

The current Grand Jury reviewed the original 2017-2018 report #0917, “San Joaquin County Municipality Ethics Policies,” and evaluated the mandatory responses to the findings and recommendations. Responses were reviewed to determine:

- If the agencies’ responses were complete and comprehensible;
- If the agency would implement the recommendations within the stated deadlines; and
- If confirmation was necessary. Confirmation could include written documentation, interviews or site inspections.

## Glossary

- **AB1234:** Passed by the California legislature in 2005, this bill requires local agency officials that receive compensation for service on a legislative body to receive at least two hours of training in general ethics principles and ethics laws relevant to public service every two years.

## Summary of Responses and Grand Jury Conclusions

Respondent	Finding #	Response	Rec #	Response	Grand Jury Conclusion	
					Comments	Conclusion
City of Tracy	F1.1	Agreed	R1.1	Will implement		Further action required
San Joaquin County	F2.1	Partially disagree	R2.1	Other		Further action required
	F2.2	Partially disagree	R2.2	Other		
City of Escalon	F3.1	Agreed	R3.1	Will implement		Further action required
City of Lathrop	F4.1	Agreed	R4.1	Implemented		No further action taken
City of Lodi	F5.1	Partially Agreed	R5.1	Other		Further action required
City of Manteca	F6.1		R6.1		See Section 6.0 for responses	Further action required
City of Ripon	F7.1	Agreed	R7.1	Implemented		No further action taken
City of Stockton	F8.1	Agreed	R8.1	Implemented		No further action taken

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

### 1.0 City of Tracy

**2017-2018 Grand Jury Finding F1.1:** The City of Tracy does not have an ethics policy for its elected, appointed officials and senior staff (city manager, city attorney, city clerk and their subordinate employees not represented by a bargaining unit). The lack of a policy has resulted in conflict, mistrust, and allegations of misconduct.

***Agency Response:*** *The City agrees with this finding. The City does not have a comprehensive ethics policy encompassing all of the categories of officials and staff. The*

*City recognizes that state law provides ethical requirements and boundaries, but the City has not enacted its own comprehensive code of conduct or ethics policy.*

**2017-2018 Grand Jury Recommendation R1.1:** By October 31, 2018, the Tracy City Council develop and adopt an ethics policy that governs the behavior of its elected officials, appointed officials, and senior staff.

**Agency Response:** *The City is in the process of implementing this recommendation. On August 21, 2018, the City Council appointed a subcommittee of two Council Members to work with the City Attorney to prepare a comprehensive code of conduct and ethics and/or policy. Work is ongoing and the subcommittee intends to have a draft code for the Council to review as soon as possible. While endeavoring to be completed by October 31, 2018, the City Council will undoubtedly have some modifications and/or changes that may result in a reasonable delay. However, the City is committed to enacting a code of ethics that would apply to Council Members, appointed officials and appointed staff in 2018. The City will provide the Grand Jury the policy when completed and enacted.*

### **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that the Tracy City Council adopt an ethics policy by October 31, 2018. On August 21, 2018, the Tracy City Council appointed an ad-hoc committee to develop the policy. The committee was to present a draft at the first Council meeting in October, 2018. The ethics policy was not discussed again until February 5, 2019, at which time they deferred discussion until the February 19, 2019, meeting. At this meeting, the Council spent a significant amount of time discussing the draft ethics policy, but a policy was not adopted. A special Council meeting was held on April 2, 2019, to discuss a revised draft, but again, no policy was adopted. A revised draft was to be presented at the April 16, 2019, Council meeting. However, on April 16, 2019, the ethics policy was not on the agenda.

**2018-2019 Grand Jury Finding F1:** The Tracy City Council has not adopted an ethics policy.

**2018-2019 Grand Jury Recommendation R1:** By October 31, 2019, the Tracy City Council develop and adopt an ethics policy that governs the behavior of its elected officials, appointed officials, and senior staff.

## **2.0 San Joaquin County**

**2017-2018 Grand Jury Finding F2.1:** The San Joaquin County Board of Supervisors ethics policy does not include dependent boards and commissions. This could cause policy inconsistency across the county's boards and commissions leading to a perception of differing values for each board in the county.

**Agency Response:** *Partially disagree. In 2005, the California legislature passed AB 1234 to require that California local agencies provide for ethics training to local agency officials that receive compensation for service on a legislative body. This statute was codified in the Government Code as Section 53235. This Code section requires that individuals receive at least two hours of training in general ethics principles and ethics laws relevant to public service every two years. While the law allows local agencies to develop their own curricula to satisfy the law, the statute also provides that training can be accomplished by self-study materials and tests to be taken at home, in-person or online. The law went on to empower the Fair Political Practices Commission and the Attorney General to determine the sufficiency and accuracy of any proposed course content.*

*In January of 2006, the San Joaquin County Board of Supervisors implemented AB 1234 by requiring that ethics training be received by all members of the following boards, committees and commissions:*

*Agricultural Advisory Board  
Assessment Appeals Board  
Aviation Advisory Board  
Building Board of Appeals  
Cal-ID System Remote Access  
Children & Families Commission  
Civil Service Commission  
Commission on Aging  
Community Action Board  
Equal Employment Opportunity Advisory Board  
Health Commission SJC  
Housing Appeals Board  
Juvenile Justice – Delinquency Prevention Commission  
Behavioral Health Board  
Parks and Recreation Commission  
Planning Commission  
Revolving Loan Fund Board of Directors  
Retirement Board*

**2017-2018 Grand Jury Finding F2.2.** The ethics policy for the County of San Joaquin does not cover the county administrator, county counsel, county clerk or their subordinate employees not represented by a bargaining unit. These officials require the same guidelines as elected officials to ensure they are acting ethically.

**Agency Response.** *Partially Disagree. In addition to requiring that the member of boards, committees and commissions receive such training, the Board of Supervisors extended the required training to all County Department Heads and their assistants/ deputies. Since 2006, several online training programs have been developed and are currently recommended to members of San Joaquin County boards, commissions and committees*

*as well as department heads and their assistants/deputies. These programs are sponsored by the Institute for Local Government as well as the Fair Political Practices Commission.*

**(See Exhibit 1 for the status of training of department directors and their assistants/deputies)**

**2017-2018 Grand Jury Recommendation R2.1:** By October 31, 2018, the San Joaquin County Board of Supervisors develop and adopt an ethics policy that governs the behavior of dependent board and commission members.

***Agency Response:*** *Partially implemented. As noted in response to Finding 2.1, the County has implemented consistent ethics training for the members of all boards, commissions and committees. The County will continue to implement by enforcing the direction that all board, commission and committee members, successfully complete the required ethics training every two years.*

**2017-2018 Grand Jury Recommendation R2.2:** By October 31, 2018, the San Joaquin County Board of Supervisors develop and adopt an ethics policy that governs the behavior of the county senior staff.

***Agency Response:*** *Partially implemented. As noted in response to Finding 2.2, the County has implemented consistent ethics training for all department heads and assistants/deputies. The County was previously not tracking the completion of their required training. The County has now incorporated the monitoring of this training in their Human Resources training module. The County will continue to implement by enforcing the direction that all department heads and their assistants/deputies, successfully complete the required ethics training every two years.*

## **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that by October 31, 2018, the San Joaquin County Board of Supervisors develop and adopt an ethics policy that governs the behavior of dependent board and commission members and County senior staff. The County's current written ethics policy only governs the Board of Supervisors.

In September 2018, the Board of Supervisors responded to the Grand Jury recommendation. The response indicated that as mandated by AB1234, ethics training is required for senior staff and for all board and commission members who receive compensation. The 2018-2019 Grand Jury reviewed the County's response and recognizes the benefits of the ethics training required under AB1234, but determined that this training is not the equivalent of a written and adopted ethics policy.

**2018-2019 Grand Jury Finding F2:** AB1234 training is not the equivalent of adopting and implementing a written ethics policy.

**2018-2019 Grand Jury Recommendation R2:** By December 31, 2019, the Board of Supervisors develop and adopt an ethics policy that governs the behavior of dependent board and commission members and County senior staff.

### **3.0 City of Escalon**

**2017-2018 Grand Jury Finding F3.1:** The City of Escalon does not have an ethics policy for its elected and appointed officials and senior staff such as the city administrator, city attorney, city clerk and their subordinate employees not represented by a bargaining unit. Failure to have an ethics policy could lead to poor judgement, public misconception and lack of trust.

***Agency Response:** The City agrees with the findings made by the Grand Jury regarding the lack of an ethic policy and its importance. It has been the practice that biennial training of AB 1234 is applied to all elected officials and executive management.*

**2017-2018 Grand Jury Recommendation R3.1:** By October 31,2018, the Escalon City Council develop and adopt an ethics policy that governs the behavior of its elected and appointed officials.

***Agency Response:** The City of Escalon has included in their fiscal year budget of 2018-2019 an allocation for the assistance of a consultant to review its personnel rules and policies including the formalization of the required biennial training of AB 1234 to be required biennially of elected, appointed officials and senior staff. Due to the comprehensive review of all policies the City is anticipating that all should be completed no later than June 2019.*

### **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury found that the City of Escalon does not have a written ethics policy for its elected or appointed officials or its senior staff. They recommended that a written ethics policy be adopted by October 31, 2018. The Escalon City Council responded that they would develop an ethics policy by June 2019.

**2018-2019 Grand Jury Finding F3:** The City of Escalon will develop a written ethics policy for its elected and appointed officials and its senior staff by June 2019.

**2018-2019 Grand Jury Recommendation R3:** The Escalon City Council adopt an ethics policy by June 2019.

## 4.0 City of Lathrop

**2017-2018 Grand Jury Finding F4.1:** The City of Lathrop does not have an ethics policy for its elected and appointed officials and senior staff such as the city administrator, city attorney, city clerk and their subordinate employees not represented by a bargaining unit. Failure to have an ethics policy could lead to poor judgement, public misconception and lack of trust.

**2017-2018 Grand Jury Recommendation R4.1:** By October 31,2018, the Lathrop City Council develop and adopt an ethics policy that governs the behavior of its elected appointed officials.

***Agency Response:*** Council agrees that the City has not adopted an ethics policy specifically focused on elected, appointed officials, or unrepresented senior employees but the City has adopted a City Council Handbook and the City complies with all State and Federal ethics regulations, including Government Code Section §53235 ct. seq., also known as Assembly Bill (AB) 1234, which requires all members of the City Council and commission appointees that receive compensation or their service or reimbursement for expenses related to their official position to attend ethics training. AB 1234 Ethics Training is documented and all records of compliance with A B 1234 Ethics are produced at request. Also, the City of Lathrop Conflict of Interest Code, as mandated by California Government Code (Govt Code) section \*81000 ct. seq. also known as the Political Reform Act, is required to be reviewed biennially, and was reviewed and updated at the September 10, 2018 City Council Meeting. The City's elected and appointed officials as well as the city manager, city attorney, city clerk and unrepresented senior employees are also obligated to comply with State and Federal laws including, but not limited to, Govt Code Section §53232 Compensation, Govt Code Section §53234 Ethics Training, Govt Code Section §53237 Sexual Harassment Prevention Training and Education, Govt Code Section §53243-53244 Abuse of Office, Govt. Code Section §53296-53299 Disclosure of Information: Local Government, Govt Code Section 81000 ct. sec. Political Reform and Labor Code Section §1102.5-1102. Council directed the City Attorney to draft a proposed ethics policy for consideration by Council at the next Council meeting scheduled October 8, 2018.

- **The 2018-2019 Grand Jury found that the Lathrop City Council did adopt an ethics policy and therefore determined to take no further action.**

## 5.0 City of Lodi

**2017-2018 Grand Jury Finding 5.1:** The ethics policy for the City of Lodi does not cover the city manager, city attorney, city clerk, or subordinate employees not represented by a bargaining unit. These officials require the same guidelines as elected officials to ensure they act ethically.

***Agency Response:*** Lodi agrees with this finding in part and disagrees in part. Lodi agrees that in general appointed officials should be held to the same ethical standard as elected officials. Indeed Lodi and its executive management team are bound by state law ethics rules that form the basis of ethics practices above and beyond the requirements of any local ordinance and are the product of California's Fair Political Practices Act. Our executive management team is required to review their Fair Political Practices Commission Form 700 and file the same annually. The form 700 contains an extensive discussion of ethics requirements that must be reviewed to accurately fill out the form. The state Legislature enacted AB 1234 in 2006 which required Council Members and Board Members who receive reimbursement or pay to receive biennial training on state ethics laws. AB 1234 explicitly left it up to municipalities to determine whether executive team members should be included in the biennial training. As such there is no legal requirement that executive management team members receive the training. That is not to say that it is not a good practice to require AB 1234 training and in Lodi under its current City Manager, executive management staff have been required to attend the AB 1234 ethics training session that the City Manager and City Attorney present to Council and Commissions. Council agrees that formalizing that policy is a good practice and will revise its AB 1234 Policy to require the Executive Management Team to receive biennial AB 1234 ethics training

**2017-2018 Grand Jury Recommendation R5.1:** By October 31, 2018, the Lodi City Council develop and adopt an ethics policy that governs the city management team.

***Agency Response:*** As discussed above, State ethics law and AB 1234 already govern the City executive management team. However the City did not include AB 1234's option to require biennial training of the Executive Management Team in its AB1234 policy. City will amend its AB 1234 training policy to require biennial training of the executive management team by October 31, 2018.

### **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that by October 31, 2018, the City of Lodi adopt an ethics policy that governs the behavior of its senior staff. The City's current written ethics policy only governs the City Council and appointed board and commissioners.

In September 2018, the Lodi City Council responded to the Grand Jury recommendation indicating that they would expand the AB1234 ethics training to include senior staff. The 2018-2019 Grand Jury reviewed the City's response and recognizes the benefits of the ethics training required under AB1234, but determined that this training is not the equivalent of a written and adopted ethics policy.

**2018-2019 Grand Jury Finding F4:** AB1234 training is not the equivalent of adopting and implementing a written ethics policy.

**2018-2019 Grand Jury Recommendation R4:** By December 31, 2019, the City of Lodi develop and adopt an ethics policy that governs the City's senior staff.

## **6.0 City of Manteca**

**2017-2018 Grand Jury Finding 6.1:** The City of Manteca does not have an ethics policy for its elected and appointed officials and senior staff such as the city manager, city attorney, city clerk and their subordinate employees not represented by a bargaining unit. Failure to have an ethics policy could lead to poor judgement, public misconception and lack of trust.

**2017-2018 Grand Jury Recommendation R6.1:** By October 31, 2018, the Manteca City Council develop and adopt an ethics policy that governs the behavior of its elected and appointed officials and senior staff.

***Agency Response:** This finding has been reviewed by the City Council at the November 20, 2018 meeting. All legislative bodies and local agency officials are required to take the California Ethics Training (AB1234) bi-annually and this has sufficed in the past. However, the City Council will be reviewing staff recommendations about developing a Code of Ethics policy in February 2019.*

### **2018-2019 Grand Jury Discussion, Findings, and Recommendations**

The 2017-2018 Grand Jury recommended that by October 31, 2018, the City of Manteca adopt an ethics policy that governs the behavior of its elected and appointed officials and senior staff. An item to discuss an ethics policy was to be brought to Council in February 2019. To date, no agenda item regarding the development of an ethics policy has been brought before the Council. Due to a majority change of the Manteca City Council sworn in to office in December 2018, along with resolving a budget deficit, development and adoption of an ethics policy has been postponed. The city anticipates scheduling adoption of an ethics policy in June 2019.

**2018-2019 Grand Jury Finding F5:** The City of Manteca does not have an ethics policy for its elected and appointed officials or its senior staff.

**2018-2019 Grand Jury Recommendation R5:** By September 30, 2019, the Manteca City Council develop and adopt an ethics policy that governs the behavior of its elected and appointed officials and senior staff.

## 7.0 City of Ripon

**2017-2018 Grand Jury Finding 7.1:** The ethics policy for the City of Ripon does not cover senior staff (city administrator, city attorney, city clerk, or subordinate employees not represented by a bargaining unit). These officials require the same guidelines as elected officials to ensure they act ethically.

**Agency Response:** *The City of Ripon agrees with the finding.*

**2017-2018 Grand Jury Recommendation R7.1:** By October 31, 2018, the Ripon City Council develop and adopt an ethics policy that governs the city senior staff.

**Agency Response:** *In response to recommendation R7.1 of the grand jury in the above referenced matter, the City Council will be provided with a draft ethics policy which covers senior City staff. The city attorney will draft the ethics policy, and will provide a copy of adopted policy to the grand jury on or before October 31, 2018. In addition, existing code of ethics and code of conduct will be reviewed and updated as necessary.*

- **The 2018-2019 Grand Jury found that the Ripon City Council did adopt an ethics policy and therefore determined to take no further action.**

## 8.0 City of Stockton

**2017-2018 Grand Jury Finding 8.1:** Not all individuals are aware of the ethics policy. Lack of awareness of the city ethics policy could lead to misunderstandings that violate the policy.

**Agency Response:** *The respondent agrees with this finding. The City agrees that a lack of awareness could lead to violations of policies. The City is in the process of reviewing and updating its policies. As part of these efforts, the Council Policy Manual was revised into a more organized, streamlined and efficient policy framework. Council policies 2.02 - City Council Conflict of Interest Code and 2.03 - Code of Ethics for Elected Officials and Commissioners were included in the revised manual and approved by City Council Resolution 2016-01-26-1203. In addition, the City included an update of the Code of Ethics section of the City Charter in the 2014 Charter amendments that were approved by vote of the public. This update included streamlined and better organized language to give the Code of Ethics greater clarity. Furthermore, as noted in the Grand Jury Report, "Stockton's code of ethics for employees and city officials was last updated November 2, 2017. The policy is written to include elected officials, appointed staff, appointed board and commission members, and employees."*

*City directives and policies are reviewed by the City's executive team, including department heads, to disseminate information and provide updates as needed. A goal of the policy review and update project is to make policies and directives more easily accessible and have the ability to better communicate changes and share documents. Policies that are subject to review and approval at the City Council/eve/are reviewed by the City Council at public Council meetings and posted on the City's website.*

**2017-2018 Grand Jury Recommendation R8.1:** By October 31, 2018, city council members receive a copy of the ethics policy and attend a briefing about its contents.

***Agency Response:*** *The respondent agrees with this recommendation. A copy of the ethics policy has been provided to the City Council members and Council members will be briefed on its contents by October 31, 2018.*

- **The 2018-2019 Grand Jury determined to take no further action.**

## **Conclusion**

Of the eight jurisdictions within the County, only Lathrop, Ripon, and Stockton have written ethics policies that apply to their elected officials, appointed officials, and senior staff. Three additional jurisdictions, Tracy, Escalon, and Manteca, indicated that they are still in the process of writing an ethics policy. San Joaquin County and the City of Lodi acknowledged that while they do not have written ethics policies for all officials and senior staff, they do require the mandated AB1234 training. However, the Grand Jury believes that the AB1234 training is not comparable to a written, adopted ethics policy.

## **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 Tracy City Council shall respond to the applicable findings and recommendation in Section 1.0.

The San Joaquin County Board of Supervisors shall respond to the applicable findings and recommendation in Section 2.0.

The Escalon City Council shall respond to the applicable findings and recommendation in Section 3.0.

The Lodi City Council shall respond to the applicable findings and recommendation in Section 5.0.

The Manteca City Council shall respond to the applicable findings and recommendation in Section 6.0.

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

### **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 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).

**Exhibit 1 – Status of training of San Joaquin County  
Department Directors and Assistants/Deputies**

**MANDATORY ETHICS TRAINING - AB1234 COMPLIANCE**

Department	Title	Department Head/Assistant Dept Head	Certificate Date	Renewal Due Date
<b>Ag Commissioner</b>	Ag Commissioner	Pelican, Timothy	1/5/2018	<b>1/5/2020</b>
	Assistant Ag Commissioner	Bagri, Kamal	8/27/2018	<b>8/27/2020</b>
<b>Airport</b>	Airport Director	Stark, Russell	1/16/2018	<b>1/16/2020</b>
	Airport Deputy Director	Elliott, Ron	3/12/2018	<b>3/12/2020</b>
<b>Assessor/Recorder/CC</b>	Assessor-Recorder-C. Clerk	Bestolarides, Steve	5/26/2017	<b>5/26/2019</b>
	Asst. Assessor-Rec-C. Clerk	Johnson, Karyn	8/28/2017	<b>8/28/2020</b>
<b>Auditor-Controller</b>	Auditor-Controller	Wilverding, Jerome	2/28/2018	<b>2/28/2020</b>
	Assistant Auditor-Controller	Woltkamp, Jeff	8/27/2018	<b>8/27/2020</b>
<b>Child Support Services</b>	Director of Child Support Serv.	Cruz, Lori	4/27/2017	<b>4/27/2019</b>
	Assistant Director of DCSS	Riley, Veronica	5/18/2018	<b>5/18/2020</b>
<b>Clerk of the Board</b>	Clerk of the Board	Duzenski, Mimi	4/24/2017	<b>4/24/2019</b>
<b>Community Development</b>	Director	Sullivan, Kerry	8/30/2018	<b>8/30/2020</b>
	Assistant Director	Merlo, Eric	8/31/2018	<b>8/31/2020</b>
	Deputy Director - Neighborhood Preservation	Hoo, Raymond	8/30/2018	<b>8/30/2020</b>
	Deputy Director - Building Inspection	Fine, Mark	8/31/2018	<b>8/31/2020</b>
<b>County Administrator</b>	County Administrator	Nino, Monica	11/29/2016	<b>11/29/2018</b>
	Assistant County Administrator	Vacant		
	Sr Deputy County Administrator	Hatef, Mo	8/15/2018	<b>8/15/2020</b>
	Sr Deputy County Administrator	Rose, Chris	9/4/2018	<b>9/4/2020</b>
		Kawano, Rod	8/22/2018	<b>8/22/2020</b>

	Sr Deputy County Administrator	Brucker, Adam	9/4/2018	<b>9/4/2020</b>
	Sr Deputy County Administrator	Regalo, Sandra	8/24/2018	<b>8/24/2020</b>
	Sr Deputy County Administrator			
<b>County Counsel</b>	County Counsel	Myles, James Mark	8/31/2018	<b>8/31/2020</b>
	Assistant County Counsel	Flores, Richard	8/30/2018	<b>8/30/2020</b>
<b>District Attorney</b>	District Attorney	Verber-Salazar, Tori	8/30/2018	<b>8/30/2020</b>
	Assistant District Attorney	Fichtner, Scott	8/30/2018	<b>8/30/2020</b>
	Assistant District Attorney	Reed, Kristine	8/30/2018	<b>8/30/2020</b>
<b>EEDD</b>	Executive Director	Solis, John	3/22/2017	<b>3/22/2019</b>
	EEDD Director	Lantsberger, Steven J.	8/30/2018	<b>8/30/2020</b>
<b>Environmental Health</b>	Director	Tutkatte, Linda	8/27/18	<b>8/27/2020</b>
	Assistant Director	Kasey, Foley	8/28/2018	<b>8/28/2020</b>
<b>General Services</b>	Director	Cunningham, Marcia	8/27/2018	<b>8/27/2020</b>
Facilities Management	Assistant Director	Castagna, David	8/31/2018	<b>8/31/2020</b>
Parks and Rec	Parks Administrator	Morozowsky, Martin	8/30/2018	<b>8/30/2020</b>
Office of Emergency Services	Deputy Director	Lima, Shellie	8/27/2018	<b>8/27/2020</b>
Capital Projects	Capital Projects Administrator	Moore, Daniel	8/27/2018	<b>8/27/2020</b>
<b>Health Care Services</b>	Director	Diederich, Greg	1/3/2018	<b>1/13/2020</b>
	Assistant Director	Garber, Matthew	8/29/2018	<b>8/29/2020</b>
Behavioral Health Services	BH Services Director	Vartan, Anthony	8/30/2018	<b>8/30/2020</b>
	Sr. Deputy Director	Hutchins, Frances	8/29/2018	<b>8/29/2020</b>
	Deputy Finance Director	Way, Beth	8/30/2018	<b>8/30/2020</b>
	Deputy Director - Administrative	Dunn, Cara	8/29/2018	<b>8/29/2020</b>
	Deputy Director – Clinical	Olpin, Edward	8/30/2018	<b>8/30/2020</b>
	Deputy Director – Clinical	Hannah, Kathy	8/30/2018	<b>8/30/2020</b>

Emergency Medical Services  Public Guardian Conservator  Public Health  Veterans Services  Correctional Health	Deputy Director – Clinical	Morishige, Cindy	8/30/2018	<b>8/30/2020</b>
	Deputy Director – Clinical	Coulter, Jaqueline	8/27/2018	<b>8/27/2020</b>
	Deputy Director – Clinical	Bickham, Donna	8/29/2018	<b>8/29/2020</b>
	EMS Administrator	Burch, Dan	2/13/2017	<b>2/13/2019</b>
	Public Guardian Conservator	Pennington, Michele	8/27/2018	<b>8/27/2020</b>
	Chief Deputy Director	Evans, Tamara	11/4/2016	<b>11/4/2018</b>
	Sr. Deputy Director	Blackwell-Rodriguez, Zienna	8/28/2018	<b>8/28/2020</b>
	Sr. Deputy Director	Albersen, Barbara	8/29/2018	<b>8/29/2020</b>
Veterans Services	Veterans Services Officer	Wimmer, Virginia	8/28/2018	<b>8/28/2020</b>
Correctional Health	Deputy Director II	Hernandez, Stacey	8/28/2018	<b>8/28/2020</b>
<b>Human Resources</b>	Director	Cwiek, Ted	8/15/2018	<b>8/15/2020</b>
	Deputy Director	Harris, Kathy	8/16/2018	<b>8/16/2020</b>
<b>Human Services Agency</b>	Director	Miller, Mike	8/29/2017	<b>8/29/2019</b>
	Assistant Director	Woods, Chris	8/28/2017	<b>8/28/2019</b>
	Deputy Director	Habbestad, Michel	7/6/2018	<b>7/6/2020</b>
	Deputy Director	Rocha, Anthony	8/29/2017	<b>8/29/2019</b>
	Deputy Director	Kaisch, Sam	7/9/2018	<b>7/9/2020</b>
	Deputy Director	Taing, Brian	9/26/2016	<b>9/26/2018</b>
	Deputy Director	Aguilera, Rick	3/22/2017	<b>3/22/2019</b>
Mary Graham Children Shelter	Director MGCS	McCoy, Stephanie	8/3/2018	<b>8/3/2020</b>
<b>Information Systems</b>	Director	Becker, Jerry	8/24/2018	<b>8/24/2020</b>
	Assistant Director	Newaj, David	8/25/2018	<b>8/25/2020</b>
	Assistant Director	Thomas, Mark	8/28/2018	<b>8/28/2020</b>
Registrar of Voters	Registrar of Voters	Dubroff, Melinda	3/2/2018	<b>3/2/2020</b>
<b>Probation</b>	Chief Probation Officer	James, Stephanie	5/31/2018	<b>5/31/2020</b>

	Asst. Chief Probation Officer	Elliott, Mark	8/28/2018	<b>8/28/2020</b>
<b>Public Defender</b>	Public Defender	Lyell, Miriam	8/30/2018	<b>8/30/2020</b>
	Assistant Public Defender	Delph, Vickie	8/28/2018	<b>8/28/2020</b>
<b>Public Works</b>	Director	Balaji, Kris	8/30/2018	<b>8/30/2020</b>
	Deputy Director	Buchman, Fritz	8/30/2018	<b>8/30/2020</b>
	Deputy Director	Stone, Jim	8/30/2018	<b>8/30/2020</b>
	Deputy Director	Selling, Michael	8/31/2018	<b>8/31/2020</b>
<b>Purchasing &amp; Support Services</b>	Director	Drake, Jon	7/18/2017	<b>7/18/2019</b>
	Assistant Director	Jayne, Gary	8/28/2018	<b>8/28/2020</b>
<b>San Joaquin General Hospital</b>	Chief Executive Officer	Culberson, David		
	Chief Financial Officer	Kreutner, Ronald		
	Chief Nursing Officer	Snyder, Belva		
	Chief Operating Officer	Vacant		
<b>Sheriff-Coroner</b>	Sheriff-Coroner	Moore, Steve	1/26/2018	<b>1/26/2020</b>
	Undersheriff	Mondavi, Annette	1/17/2018	<b>1/17/2020</b>
<b>Treasurer-Tax Collector</b>	Treasurer-Tax Collector	Vacant		
	Asst. Treasurer-Tax Collector	Keokham, Phonxay	8/27/2018	<b>8/27/2020</b>
	Chief Deputy Treasurer	Matta, Mandy	1/24/2018	<b>1/24/2020</b>



**Follow-up Report to the  
2016-2017 San Joaquin County Grand Jury**

**Case #0616**



**County Wide Dispatch for Fire**

**Two Are Not Always Better Than One**

**Preface**

This report contains the responses to the 2017-2018 San Joaquin County Civil Grand Jury follow-up to the 2016-2017 report #0616, "County Wide Dispatch for Fire." The 2017-2018 Grand Jury findings and recommendations, as well as the agency's responses are presented verbatim in this report.

The 2018-2019 Grand Jury follow-up determinations are presented after the agency's response to each recommendation.

Complete copies of the original reports and the agency's responses may be found on the San Joaquin County Grand Jury website at: <https://www.sjcourts.org/grandjury/>

**Summary**

The 2016-2017 San Joaquin Civil Grand Jury report #0616 focused on emergency dispatch protocol, operations, and infrastructure. The report researched whether a single countywide fire dispatch center in San Joaquin County would improve public safety and reduce cost.

## Method of Follow-Up Investigation

The 2018-2019 Grand Jury reviewed the original 2016-2017 report #0616, the 2017-2018 Grand Jury follow-up report, and evaluated the mandatory responses to the recommendations. The current Grand Jury interviewed the Fire Chief and City Manager of Stockton and the Administrator of the San Joaquin County Emergency Medical Services Agency. The Grand Jury also toured the Stockton Fire Dispatch Center. Responses were reviewed to determine:

- If the agency's responses were complete and comprehensible;
- If the agency would implement the recommendations within the stated deadlines; and
- If confirmation was necessary. Confirmation could include written documentation, interviews or site inspections.

## Glossary

- **AVL:** Automatic Vehicle Locator. Identifies the exact location of emergency vehicles and routes the closest vehicle to the emergency.
- **CAD:** Computer-Aided Dispatch.
- **UHF:** Ultra-High Radio Frequency
- **VRECC:** Valley Regional Emergency Communication Center. VRECC is a Joint Powers Authority (JPA) run by American Medical Response (AMR) that dispatches for the ambulance services and many of the fire agencies in the County.

## 2016-2017 Grand Jury Recommendations

**2016-2017 Grand Jury Recommendation R1.4:** By December 31, 2017, the City of Stockton develop a plan to replace the existing core UHF radio technology that supports public safety with San Joaquin County core UHF technology.

***Stockton City Council Response dated August 22, 2017:*** *The respondent partially agrees and partially disagrees with this recommendation. The City is currently working with a consultant to develop a project schedule and plan to replace its' outdated core UHF radio technology that supports City public safety agencies. The plan will be developed with regional interoperability and possible redundancy with county technology in mind, but separate from San Joaquin County's current core UHF radio technology plan. It is anticipated that a schedule will be in place prior to December 31, 2017.*

**2017-2018 Grand Jury Follow-up Response:** The 2017-2018 Grand Jury determined further action is required. The Grand Jury did not receive a copy of the anticipated schedule addressed above. The 2018-2019 Grand Jury may decide to follow-up on R1.4 to ensure that a project plan is published and that the system is installed within the anticipated timelines.

**2016-2017 Grand Jury Recommendation R2.1:** By December 31, 2018, have AVL deployed at the Stockton Fire Dispatch Center.

**Stockton City Council Response dated August 22, 2017:** *The respondent partially agrees with this recommendation. The City has an established timeline to implement the upgraded CAD system by January 2018, which will include AVL capability.*

**2017-2018 Grand Jury Follow-up Response:** The 2017-2018 Grand Jury determined further action is required. The Grand Jury did not receive a copy of the anticipated timeline schedule addressed above. As of the date of this report, the system has not been implemented by the City of Stockton, contrary to previous statements by various Fire Agencies. The 2018-2019 San Joaquin County Civil Grand Jury may decide to follow-up on this item to ensure that it has been implemented and performs as anticipated.

### **2018-2019 Grand Jury Discussion, Findings and Recommendations**

The 2018-2019 Grand Jury chose to follow-up on the 2016-2017 Grand Jury Recommendations R1.4 and R2.1 to determine if the plan to replace the existing core UHF radio technology and the CAD upgrade had been completed. Following interviews with City staff and a tour of the Stockton Fire Dispatch Center, the current Grand Jury requested an update of the time schedule from the City of Stockton. The City responded in August 2018 that due to changes in the specifications required by the San Joaquin County Emergency Medical Services Agency (SJEMSA) just months before the implementation of the CAD upgrade was going to occur, the deadline would be extended to March 2019. SJEMSA maintains that the City knew all specifications well in advance and that no revisions to the specifications occurred.

In March 2019, the Grand Jury followed up with the City to determine if the CAD upgrade had occurred. The City responded that it would be completed by the end of the calendar year.

**2018-2019 Grand Jury Finding F1:** The City of Stockton did not provide a plan to replace the existing core UHF radio technology when requested.

**2018-2019 Grand Jury Finding F2:** The City of Stockton did not provide documentation of the changed CAD specifications despite several requests.

**2018-2019 Grand Jury Finding F3:** The City of Stockton has not completed the upgrade of its CAD system that will allow for AVL technology.

**2018-2019 Grand Jury Recommendation R1:** The City of Stockton provide a plan to replace the existing core UHF technology by September 31, 2019.

**2018-2019 Grand Jury Recommendation R2:** The City of Stockton complete the upgrade of its CAD system and have AVL deployed at the Stockton Fire Dispatch Center by December 31, 2019.

### **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 Findings F1, F2, and F3 and Recommendations R1 and R2.

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

Honorable Linda L. Lofthus, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

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

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**Section V**

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*Tours & Presentations*





## Tours

<b>Date</b>	<b>Tour</b>
October 10, 2018	San Joaquin County Jail and Honor Farm
October 22, 2018	San Joaquin County Registrar of Voter (Voter Testing)
November 7, 2018	California Health Care Facility
November 28, 2018	Port of Stockton
December 6, 2018	Micke Grove Zoo
December 19, 2018	Peterson Juvenile Hall
January 10, 2019	California Department of Justice Central Valley Regional Laboratory in Ripon
February 6, 2019	Deuel Vocational Institution
May 16, 2019	N. A. Chaderjian and O.H. Close Youth Correctional Facilities
June 6, 2019	San Joaquin General Hospital
June 13, 2019	Stockton Metropolitan Airport

## Presentations

<b>Date</b>	<b>Presentation</b>
September 25, 2018	City of Stockton Police Department
October 31, 2018	San Joaquin County Sheriff
December 12, 2018	San Joaquin County Homeless Coordinator
January 23, 2019	San Joaquin County Human Services



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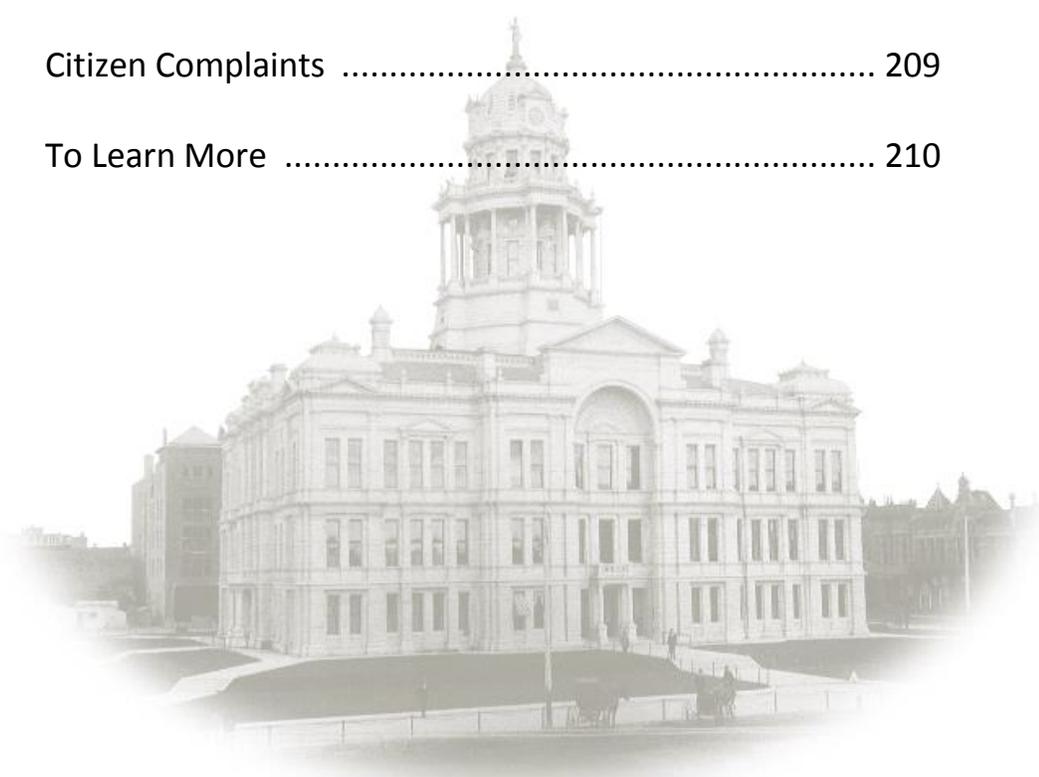
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# *Grand Jury Process*



## **About the Grand Jury**

The San Joaquin County Civil Grand Jury's duty is to address citizens' concerns regarding the operation of local government entities.

The Civil Grand Jury is comprised of 19 citizens who are impaneled annually for a one-year term. The Grand Jury has a separate and different function than that of a trial jury and does not hear cases in a courtroom. Instead, Grand Jurors examine and investigate local governmental activities within San Joaquin County.

The responsibilities of the Civil Grand Jury encompass the examination of all aspects of County government, including school and special districts, to ensure that the County is being governed lawfully, efficiently, and that public monies are being handled appropriately. The Grand Jury may conduct investigations of public agencies and the administration and affairs of any city within the County.

The Grand Jury is authorized by law to:

- Inquire into the condition and management of public prisons within the County;
- Investigate and report on the operations, accounts and records of city and County offices, departments and their functions;
- Inquire into the allegations of willful or corrupt misconduct of public officials;
- Investigate into the activities of all school and special assessment districts within the County;
- Submit a final report of its findings and recommendations to the Presiding Judge of the Superior Court.

## **How the Grand Jury is Organized**

The Presiding Judge of the Superior Court empanels 19 Grand Jurors to serve for one year, fulfilling the duties as outlined under state law. The Judge appoints a foreperson who presides over the Grand Jury. The Grand Jury elects other officers and organizes itself. The jurors meet in a weekly general session. Smaller investigative committees meet throughout the week.

In addition, Jurors meet with County and city officials, visit County detention facilities, and conduct independent reviews on matters of interest or concern. Each of the working committees report to the full Grand Jury. Conclusions are reached after study and thorough discussion of the issues and they may appear as part of the Grand Jury's final report.

## **Desirable Attributes of a Grand Juror**

Grand Jury service is a volunteer position with modest monthly compensation for meetings and mileage. Members receive a wealth of experience and provide a vital service to their community. Desirable attributes include:

- Good health
- An open mind
- Knowledge of and interest in local government and community affairs
- Skill in working productively with others in a group setting where respect and patience are essential
- Skill and experience in fact-finding, investigative techniques, and report writing

## **Benefits of Being a Grand Juror**

The benefits of being a grand juror are many, including:

- The satisfaction and pride of doing an important job.
- The experience of being a member of a respected panel.
- Being part of a body of people with the unique authority to see local government workings not available to most County citizens.
- Being given an opportunity to make a difference in your community.

## **Qualifications**

To be considered for nomination to be a grand juror, you must meet the following legal requirements:

- Be a U.S. citizen;
- Be at least 18 years old;
- Be a resident of San Joaquin County for at least one year immediately prior to the beginning of your service;
- Possess intelligence, sound judgment and good character;
- Have sufficient knowledge of English language to communicate orally and in writing;

You cannot be considered:

- If you are serving as a trial juror in any court in California;
- If you have been convicted of malfeasance in office or any other high crime;
- If you are serving as an elected public officer.

## Citizen Complaints

A cornerstone of the Grand Jury process is to receive and review citizen complaints which concerned persons submit as a mechanism to expose issues within governmental agencies. Because the Grand Jury is vested with certain powers to gather information, the members are able thoroughly review and investigate issues. Through review of documents and interview of witnesses, the Grand Jury process holds a strong light up to agencies to determine whether there appear to be any inefficiencies, mismanagement, or even corruption. The Grand Jury relies to a great extent on those persons who have the courage and the determination to suggest issues which may need to be investigated. The citizen complaint is a valuable tool.

The Grand Jury receives complaints regarding all levels of local government, including special districts. Complaints may include, but are not limited to, allegations of misconduct by public officials or employees and inefficiencies in local government. Any citizen may submit a complaint by completing a Complaint Form. However, not all complaints are investigated. With so many issues brought before it, the Grand Jury must make difficult decisions about what investigations to undertake during their term.

If the issue identified in a complaint falls within the Grand Jury's jurisdiction, it is first assigned to a preliminary committee to determine whether the complaint has merit. After an initial review, the committee presents its findings to the entire Grand Jury with recommendations for action. The Grand Jury then votes on the matter and thoroughly investigates those that are approved. After the investigation is complete, a final report is generated which reveals the findings and any recommendations the Grand Jury has in the matter.

Complaints are treated as confidential. This allows a complainant to come forward without intimidation.

A complaint should be submitted to the Grand Jury only after all attempts to correct an issue have been explored.

The San Joaquin County Civil Grand Jury complaint form can be found at:  
<https://www.sjcourts.org/wp-content/uploads/GrandJuryComplaintForm2.pdf>

Send your completed form to:

San Joaquin County Superior Court  
Attn: Trisa Martinez, Judicial Secretary  
180 E. Weber Avenue,  
Suite 1114 Stockton, CA 95202

Forms also can be obtained by visiting or writing to the address above. The Grand Jury does not accept complaints via e-mail.

## **To Learn More**

For more information about the San Joaquin County Civil Grand Jury visit:  
<https://www.sjcourts.org/divisions/civil-grand-jury/#/>

SAN JOAQUIN COUNTY CIVIL GRAND JURY  
180 E. Weber Ave., Suite 1114 Stockton, CA 95202