

**San Joaquin County  
Grand Jury Final Report  
2021-2022**





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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 20, 2022

The Judges of the Superior Court of California and the citizens of the County of San Joaquin thank and commend the 2021-2022 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 in keeping with the long tradition of San Joaquin County Grand Juries.

Once again, the Grand Jurors showed resilience, resourcefulness and tenacity in fulfilling their oath of office during extraordinary times.

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 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 Grand Jurors' thoughtful 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 conduct the selection process and review the work of the 2021-2022 Grand Jury. The Grand Jurors also received well considered advice from their highly experienced Advisors, County Counsel Mr. Mark Myles, Assistant County Counsel, Ms. Kimberly Johnson, Assistant District Attorney Mr. Scott Fichtner and the invaluable assistance from Superior Court administrator, Ms. Trisa Martinez and the court's Assistant CEO, Ms. Stephanie Bohrer.

The Grand Jurors once again with deep concern undertook an examination of the County's largest school district. The Grand Jurors assessed local governmental preparedness to address problems brought to light during responses to the pandemic including a comprehensive assessment of cyber security. The Law and Justice report again appears to be the result of strong cooperation and transparency by the agencies resulting in a comprehensive assessment. In keeping with their annual duty, the Grand Jurors made a careful and tenacious effort to follow up on the work of their predecessors thereby assuring the community that the San Joaquin County Grand Jury is an enduring institution which sustains its role in our civic life. I urge the public to read and consider these thoughtful, well written reports and recommendations.

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 San Joaquin County Grand Jury, for your many accomplishments, and devotion to your duty, the Superior Court extends its congratulations and gratitude.

A handwritten signature in black ink, reading "George Abdallah". The signature is written in a cursive, flowing style with a prominent initial "G".

Hon. George J. Abdallah, Jr.

Supervising Judge of the San Joaquin County Grand Juries



# *Grand Jury*

## SAN JOAQUIN COUNTY

180 E. Weber Avenue, Suite 1114  
Stockton, CA 95202  
Telephone: (209) 468-3855

Hon. Michael D. Coughlan, Presiding Judge  
Superior Court of California, County of San Joaquin  
180 East Weber Avenue, Suite 1306J  
Stockton, CA 95202

Dear Judge Coughlan:

On behalf of the 2021-2022 Grand Jury, I am honored to present to you and the citizens of San Joaquin County our final report.

This Grand Jury initiated eight investigations, three of which resulted in the final report presented here. Seventy-three individuals were called as witnesses during the investigative processes and the jurors spent many hours in research and in reviewing a multitude of documents related to the investigations. The jurors also followed up on the responses to the 2020-2021 grand jury report and included reports of those follow up results in this final report.

Representatives from 19 County and City agencies gave presentations on their operations to the Grand Jury. Jurors made site visits to the San Joaquin County Jail, the Juvenile Detention Facility and the Port of Stockton. Individual jurors went on ride-a-longs with law enforcement officers from seven different agencies.

The 2021-2022 Grand Jury was representative of all five County Supervisorial Districts. The jurors brought a broad range of experience and expertise from both the public and private enterprise sectors. Each juror took their responsibility seriously and worked tirelessly to meet the commitment of providing the citizens of San Joaquin County with an unbiased assessment of specific County government operations. Each juror should be commended for their dedication to this jury service.

I would like to commend and thank our Staff Secretary, Miss Trisa Martinez, without whom we would have been floundering on many occasions. She kept us all moving forward in the right direction. I would also like to thank our advisors, Assistant District Attorney, Mr. Scott Fichtner, County Counsel, Mr. Mark Myles, Assistant County Counsel, Kimberly Johnson and the Honorable Judge George J. Abdallah Jr. for

their support and guidance. I would like to give a special thank you to each member of the Grand Jury for their dedication and service.

Finally, I would like to add that it was an honor to serve as the foreperson for the 2021-2022 Grand Jury and to have the opportunity to work with an amazing group of fellow citizens toward common goals.

Sincerely,



Linda Bradshaw, Foreperson

2021-2022 San Joaquin County Grand Jury



Back row from left to right: Harold Williams, Reed Niemi, Bob Magee, Michael Lair, Mary Webb, Leonardo R. López, Stephen Serfozo, Bruce Frank, Patrick Piggott, Sharyl Stanton.

Front row from left to right: Juana L. Dement, Bonnie Vistica, Regina Peters, Janyce Canote, Linda Bradshaw, Sarbani Basu, Pamela Sloan, Judy Prima.

The 2021-2022 Grand Jury is representative of all five San Joaquin County Supervisorial Districts. The jurors brought to the jury a wide range of expertise from both private sector enterprises and governmental services. Areas of expertise include but are not limited to:

Education

Entrepreneurship

Financial accounting, analysis, auditing, budgeting and management

Human Resources

Information Technology

Legal profession

Leadership training and consulting for local governments

Medical Care

Military Service

Public Relations

Purchasing

Real Estate

Sales

Strategic Planning



## Section II: Investigations

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# Investigations



## 2021–2022 San Joaquin County Grand Jury



### **Stockton Unified School District: A Failing Grade in Public Trust Case #0121**



### **Summary**

The 2021-2022 Grand Jury received complaints alleging the Stockton Unified School District's (SUSD) management and Board of Trustees were not adhering to policies and procedures regarding financial transactions and funds were not being used in the best interest of students, families, staff and District.

The investigation included over 30 interviews with complainants, District staff (current and former) at all levels, Board of Trustees, State and local education departments, and professional entities that had conducted operational assessments. Documentation reviewed included SUSD Board documents, California Education Code, SUSD contracts and billings, correspondence,

government codes, the 2022 Fiscal Crisis Management Assistance Team (FCMAT) Work Study Report, portions of the California Education and Government Codes, and many other documents pertinent to the investigation.

The Grand Jury found multiple examples supporting the conclusion of poor business practices, inadequate duty of care by the administration and Board, and lack of transparency to the public and Board, potentially risking the District's solvency.

SUSD and FCMAT project that the District is headed toward at least a \$30 million deficit by fiscal year 2024-2025. As a result of this projected deficit, the San Joaquin County Office of Education (SJCOE) has hired FCMAT, the State agency charged with conducting fiscal oversight of public education, to conduct an AB139 Extraordinary Audit, a comprehensive examination of the fiscal issues of the District. This is the first such audit of a public school district in San Joaquin County since 2015 and only the second since conception of AB 139 in 2001. The 2015 AB139 Extraordinary Audit involved a small Independent Charter School. The current Extraordinary Audit of SUSD is the first such audit of a public school district in San Joaquin County.

If SUSD continues to operate as is, the District deficit will likely escalate. The Grand Jury recommends the following actions by the SUSD Board of Trustees to avoid a possible State-ordered takeover by SJCOE due to fiscal mismanagement and poor District leadership:

- align the Business Services Department (BSD) software to that used by SJCOE;
- follow established Board policies regarding duty of care, purchasing, Request for Qualifications (RFQ), Request for Proposal (RFP), contract terms, change orders, acquisition of legal services and transparency;
- develop new policies to address specific issues in purchasing;
- reinstate the Grant Development Office;
- complete fully and accurately all forms that are submitted to the Board of Trustees;
- complete all California School Board Association (CSBA) Masters in Governance (MIG) trainings;
- avoid real or perceived conflicts of interest;
- shift the salaries of essential department directors, teachers and support staff from one-time money to the appropriate General Fund category to better reflect the status of solvency; and
- follow staff recommendations and matrix scores on contracts submitted to the Board of Trustees.

Among other issues found to be of concern were deficiencies in duty of care by senior administration and the Board of Trustees and lack of transparency to the public and Board. The Grand Jury uncovered issues with Board agenda items having minimal information and limited discussion by Trustees, Board of Trustee conflicts of interest, Board lack of preparedness for meetings and the inability of Trustees to recall how they voted on major contracts. In addition, the Grand Jury had difficulty reviewing Board actions as many Board meeting minutes were not publicly posted and the District did not fully comply with a subpoena for minutes and recordings.

## Glossary

- **AB139 Extraordinary Audit:** A comprehensive review or audit of expenditures and internal controls to determine fraud, misappropriation of funds or other illegal fiscal practices. An AB139 audit is requested by a county superintendent of schools as stipulated by California Education Code Section 1241.5 (b) and (c).
- **ADA:** Average Daily Attendance. California uses a school district's ADA to determine its funding.
- **Alliance:** A vendor that provides ultraviolet equipment for indoor air quality. See also **IAQ**.
- **Allowance:** An amount specified and included in a construction contract for a certain item where exact costs are not determined at the time of contracting.
- **BAI:** Board Agenda Item.
- **BB:** Board Bylaw.
- **Board of Trustees (Board or Trustee):** The members of a board of trustees, commonly known as the school board, are elected representatives of their community. Putting the interest of students' futures first, they are charged with making decisions about the local public school system based on the community's expectations, goals and needs.
- **BP:** Board Policy.
- **BSD:** Business Services Department. Business services provides non-instructional services to district schools and departments. Though most of the activities occur behind the scenes, the services are essential to the smooth delivery of classroom instruction.
- **Brown Act:** Ralph M. Brown Act "requires local government business to be conducted at open and public meetings, except in certain limited situations. The Brown Act is based upon state policy that the people must be informed so they can keep control over their government." California Government Code beginning at Section 54950.
- **CARB:** California Air Resource Board.
- **CARES:** The Coronavirus Aid, Relief, and Economic Security Act or, CARES Act, was passed by Congress on March 27th, 2020. This bill allotted \$2.2 trillion to provide fast and direct economic aid to the American people negatively impacted by the COVID-19 pandemic.
- **CASBO:** California Association of School Business Officers.
- **CBO:** Chief Business Officer. Under the general direction of the Superintendent, the Chief Business Officer provides leadership and management over the business and financial operations of the District office and serves as chief financial officer.
- **CDE:** California Department of Education.
- **COE:** County Office of Education.
- **CSBA:** California School Boards Association.
- **Consent Agenda:** Groups routine, procedural, informational and self-explanatory **non-controversial** items into a single agenda item so that the grouped items can be approved in one action.
- **Contingency:** A designated amount of money within a construction budget that can be used to pay for unexpected costs that may occur while completing the project.
- **Duty of Care:** A fiduciary duty requiring directors and/or officers of a board to make decisions that pursue the public's interests with reasonable diligence and prudence.

- **ESSER:** Elementary and Secondary School Emergency Relief Fund (Federal).
- **FCMAT:** Fiscal Crisis and Management Assistance Team. A California State agency, FCMAT's mission is to help California's local educational agencies fulfill their financial and management responsibilities by providing fiscal advice. FCMAT provides audits to help avert fiscal crises and promote sound financial practices; supports the training and development of chief business officials; and helps to create efficient organizational operations. FCMAT's data management services are used to help local educational agencies (LEAS) meet state reporting responsibilities, improve data quality and make informed decisions.
- **Fiduciary:** An individual in whom another has placed the utmost trust and confidence to manage and protect property or money.
- **Fiduciary Responsibility:** Board members act as trustees of the district's assets and must exercise due diligence and oversight to ensure that the district is well managed and that its financial situation remains sound.
- **GDO:** Grant Development Office.
- **General Fund:** This fund is the primary operating fund of the school district. It is used to account for all financial resources of the school district except those accounted for and reported in a categorical fund. A district may have only one general fund.
- **Governance Norms:** Agreed-upon behavioral expectations and protocols.
- **Government Code § 1090:** Prohibits an officer, employee or agency from participating in making government contracts in which the official or employee within the agency has a financial interest. Section 1090 applies to virtually all state and local officers, employees, and multimember bodies, whether elected or appointed, at both the state and local level.
- **HVIP:** Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project.
- **IAQ:** Indoor Air Quality, a vendor contracted by the SUSD Board of Trustees to provide indoor air quality equipment and installation. See also **Alliance**.
- **IFB:** Invitation for Bid.
- **LCAP:** Local Control and Accountability Plan. The LCAP is a three-year projection tool for local educational agencies to set goals, plan actions and prioritize resources to meet those goals to improve student outcomes.
- **MOU:** Memorandum of Understanding.
- **MYFP:** Multi-Year Financial Projections.
- **PRA:** California Code Government Code Title 9-Political Reform Act 87100. Amended January 1, 2022. A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.
- **RAISE Grant:** Rebuilding American Infrastructure Sustainability and Equity. This is the first discretionary funding program to accept applications as directed by President Biden's Bipartisan Infrastructure Law. The \$1.5 billion in available funding for 2022 represents a 50% increase in available funds compared to last year.
- **RFP:** Request for Proposal. A formal document that outlines an organization's intent to purchase goods and/or services and used to determine the best provider of product or service.

- **RFQ:** Request for Qualifications. An RFQ determines the best fit for a job based on the qualifications of the applying vendor.
- **SJCOE:** San Joaquin County Office of Education.
- **SUSD:** Stockton Unified School District.
- **Scoring rubric:** A rubric is a scoring tool that describes performance expectations for an assignment or piece of work. A rubric divides the assigned work into parts and provides clear descriptions of the characteristics of the work associated with each part, at varying levels of performance.
- **Superintendent:** The superintendent is the top executive in the school district. The role is to promote the success of all students and support the efforts of the board of trustees to keep the district focused on learning and achievement. The superintendent is hired and evaluated by the board of trustees.
- **TSS:** Total School Solutions is a private firm serving the interests of school districts and students that offers comprehensive services in the areas of education, budget and finance, facilities and planning, human resources, leadership and governance, operations, technology, professional development and legal compliance training.
- **UVC:** UVC light technology is a radiation method that makes use of a specific wavelength of ultraviolet light to neutralize microorganisms.
- **WestEd & Partners:** A nonpartisan, nonprofit research, development and service agency which works with education to promote excellence, achieve equity and improve learning.

## Background

**Stockton Unified School District  
Mission**

Our Mission is to graduate every student college, career, and community ready. In doing so we lift all youth out of circumstances of poverty and scarcity.

Stockton Unified School District (SUSD) has served students and families since 1852. SUSD currently employs 1,585 full-time classroom teachers and over 1,500 support staff. The District serves 37,559 students at 54 school sites and is the 15<sup>th</sup> largest school district in California. SUSD has an annual budget of \$585 million. The District has one of the highest rates of minority enrollment in California at 94%. With an overall graduation rate of 78%, SUSD is in the lower 50% of all districts in California.

## **Reason for Investigation**

The 2021-2022 Grand Jury received public and staff complaints alleging dysfunction of the Stockton Unified School District regarding financial management, transparency, Board conduct and the historic influx of one-time money, totaling more than \$250 million, being used for long-term spending commitments.

## **Method of Investigation**

The 2021-2022 Grand Jury concentrated on SUSD's financial management, Board transparency and Board duty of care. Preparation for this report included conducting more than 30 interviews, attending virtual Board meetings and listening to recordings of Board meetings, and reviewing relevant documents, websites and newspaper articles.

## **Materials Reviewed**

- AB139 Extraordinary Audit
- Applicable federal and California state laws
- Board minutes from 13 school districts in San Joaquin County
- California Education Code
- California school district surveys
- California Secretary of State Department nonprofit filings
- Complaints against SUSD
- FCMAT Indicators of Risk or Potential Insolvency 8/14/2019 (Appendix A)
- FCMAT Work Study Report requested by SUSD
- Financial records, including audits, budget projections, purchase orders, warrant ledgers and invoices
- Health and Environmental Impacts of Diesel Exhaust, Oklahoma Department of Environmental Quality
- Newspaper articles regarding SUSD and SUSD personnel
- Scoring rubrics
- State and federal Government Codes
- SUSD Board meeting agendas, minutes and recordings
- SUSD bylaws and Board policies
- SUSD charter school documents
- SUSD consultant contracts, proposals and memoranda of understanding
- SUSD contracts for legal services, investigations and mediation

- SUSD correspondence
- SUSD LCAP progress reports
- SUSD State and federal grants (air quality, construction, program development, etc.)
- Total School Solutions Facility and Planning Efficiency Study
- WestEd report

### Websites Searched

- *12 uses for ESSER funds.* (2020, July 29). Districtadministration.com. <https://districtadministration.com/12-uses-for-esser-funds/>. Accessed 5/28/2022.
- California Air Resources Board <https://ww2.arb.ca.gov/capp-cag>. Accessed 5/28/2022.
- *California Department of Education.* (2019). Ca.gov. <https://www.cde.ca.gov>. Accessed 5/28/2022.
- California School Boards Association <https://www.csba.org/>. Accessed 5/28/2022.
- *Chapter 6: Account Classification Descriptions — Fund Classifications* [https://nces.ed.gov/pubs2015/fin\\_acct/chapter6\\_1.asp](https://nces.ed.gov/pubs2015/fin_acct/chapter6_1.asp). Accessed 5/28/2022.
- *Codes: Codes Tree - Education Code - EDC.* Leginfo.legislature.ca.gov. Retrieved May 10, 2022, from <https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=EDC>.
- Commission, C. E. *Home Page.* California Energy Commission. <https://www.energy.ca.gov>. Accessed 5/28/2022.
- *Demystifying ESSER Funding Questions: Managing Short-term Financial Needs While Ensuring Long-term Sustainability.* (2021, December 20). Frontline Research & Learning Institute. <https://www.frontlineinstitute.com/blog/demystifying-esser-funding-questions/>. Accessed 5/28/2022.
- *Education Department General Administrative Regulations (EDGAR) and Other Applicable Grant Regulations.* (2015, February 11). www2.Ed.gov. <https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>. Accessed 5/28/2022.
- *Elementary and Secondary School Emergency Relief Fund.* Office of Elementary and Secondary Education. <https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>. Accessed 5/28/2022.
- *eSchoolBus4Kids | Clean Electric School Buses for America's Kids.* ESchoolBus4Kids. Retrieved May 10, 2022, from <https://www.eschoolbus4kids.org>. Accessed 5/28/2022.
- *ESSER Funds May Subject Charter School to Federal Single Audit.* (2020, December 4). AAFCPAs. <https://www.aafcpa.com/2020/12/04/esser-funds-may-subject-charter-school-to-federal-single-audit/>. Accessed 5/28/2022.
- *ESSER I Funding - Federal Stimulus Funding (CA Dept of Education).* www.cde.ca.gov. Retrieved May 10, 2022, from <https://www.cde.ca.gov/fg/cr/esser.asp>.
- *ESSER III: Receiving and spending your district's dollars.* Bricker & Eckler Attorneys at Law. Retrieved May 10, 2022, from <https://www.bricker.com/industries-practices/schools/insights-resources/publications/esser-iii-receiving-and-spending-your-districts-dollars>.

- Fair Political Practices Commission: *FPPC Home*. [www.fppc.ca.gov](http://www.fppc.ca.gov). Retrieved May 10, 2022, from <https://www.fppc.ca.gov>.
- FCMAT. [www.fcmat.org](http://www.fcmat.org). Retrieved May 10, 2022, from <https://www.fcmat.org>.
- *Funding Results: ESSER III (ARP Act Section 2001) (CA Dept of Education)*. [www.cde.ca.gov](http://www.cde.ca.gov). Retrieved May 10, 2022, from <https://www.cde.ca.gov/fg/fo/r14/esserii20result.asp>.
- *General Information / District Profile*. [www.stocktonusd.net](http://www.stocktonusd.net). Retrieved May 10, 2022, from <https://www.stocktonusd.net/Domain/160>.
- Total School Solutions. Retrieved May 10, 2022, from <https://www.totalschoolsolutions.net>.
- *Improving Education: Research, Development, Services*. [www.wested.org](http://www.wested.org). <https://www.wested.org>. Accessed 5/28/2022.
- Miller, B. (2019). *Government Technology State & Local Articles - e.Republic*. Govtech.com. <https://www.govtech.com>. Accessed 5/28/2022.
- *Monitoring Requirements for ESSER Funding*. (2021). <https://www.nd.gov>. Accessed 5/28/2022.
- *National Center for Education Statistics (NCES) Home Page, part of the U.S. Department of Education*. [nces.ed.gov](http://nces.ed.gov). <https://www.nces.ed.gov>. Accessed 5/28/2022.
- NCBI. (2019). *National Center for Biotechnology Information*. [nih.gov](http://nih.gov). <https://www.ncbi.nlm.nih.gov>. Accessed 5/28/2022.
- *OMB Uniform Guidance (2014) | GRANTS.GOV*. [www.grants.gov](http://www.grants.gov). <https://www.grants.gov/learn-grants/grant-policies/omb-uniform-guidance-2014.html>. Accessed 5/28/2022.
- *Search for Public School Districts - District Detail for Stockton Unified*. [nces.ed.gov](http://nces.ed.gov). Retrieved May 10, 2022, from [https://nces.ed.gov/ccd/districtsearch/district\\_detail.asp?Search=2&ID2=0638010](https://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=2&ID2=0638010).
- *Stockton Unified School District (2022) | Stockton, CA*. [www.publicschoolreview.com](http://www.publicschoolreview.com). Retrieved May 10, 2022, from <https://www.publicschoolreview.com/california/stockton-unified-school-district/638010-school-district>.
- Stockton. (2022). *Stockton Unified School District / Homepage*. [stocktonusd.net](http://stocktonusd.net). <https://www.stocktonusd.net>. Accessed 5/28/2022.
- *The San Joaquin County Office of Education*. [www.sjcoe.org](http://www.sjcoe.org). <https://www.sjcoe.org>. Accessed 5/28/2022.
- US Census Bureau. (2010). *Census.gov*. [census.gov](http://census.gov). <https://www.census.gov>. Accessed 5/28/2022.
- US Census Bureau. (2019, July 1). *QuickFacts: United States*. Census Bureau QuickFacts; United States Census Bureau. <https://www.census.gov/quickfacts/fact/table/US/PST045219>. Accessed 5/28/2022.
- *U.S. DEPARTMENT OF EDUCATION FACT SHEET American Rescue Plan Act of 2021 ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND (ARP ESSER) ARP ESSER OVERVIEW*. [https://oese.ed.gov/files/2021/03/FINAL\\_ARP-ESSER-FACT-SHEET.pdf](https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf). Accessed 5/28/2022.

- *US Department of Transportation*. (2019). US Department of Transportation. <https://www.transportation.gov>. Accessed 5/28/2022.
- *U.S. EPA Research Webinar-COVID19 UV-C Devices & Methods for Surface Disinfection* [https://www.youtube.com/watch?v=cWvKIVxQIgE\\_](https://www.youtube.com/watch?v=cWvKIVxQIgE_). Accessed 5/28/2022.
- *Understanding ESSER and ARP*. Great Schools Partnership. Retrieved May 10, 2022, from <https://www.greatschoolspartnership.org/esser/>.
- <https://www.americanbar.org/groups/litigation/committees/commercialbusiness/practice/2017/5-billing-tips-for-young-lawyers/>. Accessed 5/28/2022.

## Discussions, Findings and Recommendations

### 1.0 Finance

#### Elementary and Secondary Emergency Relief (ESSER) Fund (Appendix B)

SUSD received allocations of approximately \$15 million ESSER I funds; \$70 million ESSER II funds; and \$156 million ESSER III funds for a total of more than \$241 million. These funds must be expended by 2024 or will revert to the federal government. Use of these funds is subject to internal audits by the District as well as audits by the Federal Office of the Inspector General.

#### SUSD ESSER FUNDS

	CARES/ESSER I	CRRSA/ESSER II	ARP/ESSER III
<b>Funding for K-12</b>	\$15,082,312	\$69,724,874	\$156,704,513
<b>Obligation Deadline</b>	Sep 2022	Sep 2023	Sep 2024
<b>Uses</b>	Summer Learning  Providing mental health Services  Educational technology including hardware and software  Activities to address the unique needs of various subgroups, including students with disabilities, BIPOC students, English learners, as well as students experiencing homeless, low income, or in foster care  Preparedness and continuity of services	Same as CARES plus:  Activities to address "learning loss"  Preparing schools for reopening  Projects to improve air quality in school buildings	

## 1.1 Business Services Department

The Business Services Department (BSD) is directly responsible for all financial management of the District:

- accounting
- budgeting
- compliance with State and federal reporting requirements
- insurance policies
- investments
- payroll
- purchasing

Due to the retirement and separation of numerous long-term employees, including the Chief Business Officer in the past year, there has been a loss of institutional knowledge and experience in this department. Key budget and management personnel have been in their positions for only a short time. SUSD is the **only** district of the 14 in San Joaquin County not using the same software as SJCOE. SUSD staff who are new and unfamiliar with the District's software system are not able to seek SJCOE assistance and training needed to access key financial reports necessary for budget analysis and projections.

The BSD is not able to provide the data and accounting for key reports such as the Local Control Accountability Plan (LCAP), ESSER or grant expenditures. The most recent mid-year LCAP report was submitted to SJCOE but lacked completed data and ancillary reports. The BSD staff lacks understanding of and training in the requirements of the LCAP report. The deficiencies in the report resulted in the rejection and return of the LCAP to SUSD by SJCOE, calling it "dramatically incomplete." The corrective action taken by the BSD was to request another SUSD department correct the report to bring the SUSD LCAP into alignment with County and State standards and regulations.

On March 27, 2020, Congress set aside approximately \$13.2 billion of the \$30.75 billion allotted to the Education Stabilization Fund through the Coronavirus Aid Relief and Economic Security (CARES) Act for the ESSER Fund (Appendix B). Congress required that school districts spend at least 20% of the funding to address lost instructional time during the pandemic due to school closures and distance learning and to address students' social, emotional and mental health needs. Based on testimony, the Grand Jury was unable to determine specifically how spending of relief money or the budgeting process for those funds was conducted.

The BSD is currently unable to produce required and requested operational budget reports for regular day-to-day operations and has hired a consulting firm for assistance. The January 11, 2022, Board Agenda Item (BAI) 6.4 states, "The District is currently experiencing difficulty in recruiting an experienced Fiscal Services Director to help manage our \$800+ million budget. District staff in our fiscal services department are feeling **overwhelmed** and are in need of additional support, expertise, and training." The contract was initially approved using ESSER funds in the amount of \$39,000 in January 2022 and was amended on April 12, 2022, to \$89,000 because of the need for additional training and support.

A lack of communication exists between BSD staff and the office of the Chief Business Officer (CBO). Some key department heads have not been provided their operational budgets and have concerns about how to manage and move forward in their respective departments. The FCMAT study team noted similar issues in their report. Inefficiencies in the BSD caused at least one delay in payroll.

Selection of the current CBO was made contrary to Board Policy (BP) 4211.2. The CBO was hired without a search, screening process or interviews.

The District shall engage in ***fair and sound personnel practices in the appointment of all employees***. The administration shall be responsible for establishing recruitment, selection and appointment procedures which ***include***:

- a. Assessment of the District’s needs to determine those areas where specific skills, knowledge and abilities are lacking.
- b. Development of job descriptions which accurately portray the position.
- c. Dissemination of vacancy announcements to ensure a ***wide range of candidates***.
- d. Screening procedures which will identify the best possible candidates for ***interviews***.

SUSD Board Policy (BP) 4211.2

## **Findings**

**F1.1.1** Stockton Unified School District does not utilize financial software that aligns with the San Joaquin County Office of Education software, making analysis and review by the San Joaquin County Office of Education difficult.

**F1.1.2** Stockton Unified School District Business Services staff lacks necessary training and guidance to execute complex District business needs, resulting in the need to hire outside consultants at an increased cost to the District.

**F1.1.3** The current Chief Business Officer was hired without following Board Policy 4211.2, creating an appearance of partiality and creating diminished internal and external confidence.

## **Recommendations**

**R1.1.1** By January 1, 2023, the Stockton Unified School District Board of Trustees direct the Superintendent to assess the current financial software to be compatible with the San Joaquin County Office of Education software.

**R1.1.2** By December 1, 2022, Stockton Unified School District Board of Trustees, in conjunction with the Business Services Department, develop, adopt and implement training policies with protocols consistent with California Association of School Business Officers best practices.

**R1.1.3** By December 1, 2022, the Stockton Unified School District Board of Trustees publicly commit through a Board resolution to adhere to Board Policy 4211.2 in recruitment efforts, candidate screenings and interview processes for all open positions.

## **1.2 Change Orders**

Change orders are an inevitable part of construction projects. Most projects will require a change order over time due to increased project costs, delays in hitting contract milestones, interruption of workflow and not completing a project on time. Change orders that are not properly managed can quickly derail the progress of a project and delay senior management and the Board learning of cost-overruns in a timely manner.

Project and program-wide budget management can be a relatively simple process. As noted in the FCMAT Work Study Report, “The master program budget and all project and program wide budget and expenditure reports should be updated monthly for maximum ability to respond to unexpected costs, budget overages, and issues such as changes in budget assumptions. These reports are relatively simple to maintain and update using Excel spreadsheets. A best practice is to have an accounting position in the Facilities and Planning Department to complete the reports, with at least two people cross trained to ensure that the reports are updated in a timely manner when employees are absent or leave the district.”

TSS conducted an SUSD Facility and Planning Efficiency Study in the fall of 2021. The Grand Jury conducted separate interviews and reviewed construction contracts. SUSD failed to follow up on the receipt of change orders and to appropriately administer change orders. According to Public Contract Code §21152, the contractor is required to submit all change orders to the Board. This requirement, according to TSS, should be met even if the change order is being charged to the project’s contingency account. SUSD agenda items have included contract amendments, but change orders and an accounting for allowances have not been included. Change orders are not presented to the appropriate District administrators for review, and few change orders are presented to the Board. Change orders are not complete when submitted to the Board for ratification or approval. Most do not contain a complete description of the change or resulting cost adjustment. These details are critical to ensure proper oversight of construction projects, many of which are funded by bonds. For example, athletic facility projects at Franklin High School had an overrun of approximately \$6 million. No change order was submitted to the Board for approval.

Of the 31 contracts reviewed, TSS found that only one change order was taken to the Board for information, approval, or ratification. While not submitting change orders may expedite the process, it conflicts with best practices. Change orders, as set forth in the California Code, Public Contract Code §10126, are to have a separate contingency budget outside of the construction contract which is drawn down as changes occur.

When allowances are used, the best practice is to provide funds for conditions known to exist but for which the quantity and cost are unknown. Scope changes, agency requirements, errors and omissions, and unforeseen conditions should be treated as change orders. The use of allowances in the contract amount expedites the authorization of change orders and minimizes

time spent in obtaining SUSD and Board approval on change orders prior to the execution of work.

According to TSS, professional service contracts, construction contracts, contract amendments and construction change orders should be presented to the Board as distinct agenda items. Professional services and construction projects are controlled by the California Code, Public Contract Code §21152.

## **Finding**

**F1.2.1** Not all change orders are brought to the Board of Trustees for approval or ratification, leaving the Board and senior management unaware of overruns and total cost of projects and causing possible cost overages and budget deficits.

## **Recommendations**

**R1.2.1** By August 30, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy with procedures for tracking adjustments to contracts.

**R1.2.2** By August 30, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy to require the Facilities and Planning Department to submit all construction change orders to the Board for review, approval and ratification under one standard agenda heading.

**R1.2.3** By August 30, 2022, the Stockton Unified School District Board of Trustees direct the Director of Facilities and Planning to designate an individual to monitor and update change orders monthly and to ensure other employees in the department are cross trained in this process.

## **1.3 Grants**

There are many reasons why school districts should and do apply for grants. Grants provide opportunity for a district to bring in new funding and allow for creation or expansion of programs. Grant funds, when used as authorized, do not require repayment of funds. The process of collecting and reviewing data on areas of need, reviewing resources, forming goals, and then generating a responsive action plan is beneficial in identifying grant opportunities. Applying for a grant, whether awarded or not, is an opportunity to reach out to other organizations with similar goals and to develop valuable community partnerships.

It is a standard practice to utilize a grant tracking system to handle applications and monitor grants in progress. Centralizing grant data facilitates report generation and effective grant management. Grant management can identify key performance indicators and generate standardized reports to maintain compliance with the terms of the grant.

Until the February 20, 2021 District reorganization, SUSD grants were overseen by the Grant Development Office (GDO). The GDO played a key role in assisting and supporting sites and/or departments in the acquisition of grant funding to improve student achievement, enhance professional development and advance District goals. The GDO's primary responsibilities

included researching grant opportunities, preparing proposals for public and private sources, providing technical assistance in grant development and performing the technical and analytical work needed to ensure compliant program implementation. The loss of the GDO following the reorganization created numerous concerns. This loss has caused department staff, directors and teachers to write and submit grant proposals with little to no guidance. Frequently, District leadership has no knowledge of the submissions. Currently no single individual or department staff oversees SUSD's grant process, resulting in:

- missed opportunities,
- lack of monitoring,
- poor data collection for grants, LCAP and bonds,
- possible misuse of funds, and
- inability to track the progress of grants and compliance with grant terms.

SUSD has not always taken advantage of grant opportunities. A prime example may be found in how SUSD leadership and the Board of Trustees addressed approval of a grant application supporting the conversion from gas/diesel to electric equipment.

The State mandate on electric vehicles requires the entire SUSD bus fleet to be electric by 2040. The mandate requires that SUSD bus purchases be at least 25% electric from 2023-2025 and then 50% in 2026-2028. All purchases starting in 2029 must be electric.

The savings on fuel costs can be significant. For example, the use of electric buses by Modesto City Schools is expected to save their District over \$250,000 per year in fuel costs (April 2022).

In addition to the cost savings, there are health benefits to be achieved by accelerating the conversion to electric power as mandated by the State. According to the California Energy Commission, in California nearly 50% of greenhouse gas emissions come from the transportation sector. The California South Coast Air Quality Management District recently estimated that nearly 71% of the cancer risk from air pollutants in the area is associated with diesel emissions. One study showed that a child riding inside a diesel school bus may be exposed to as much as four times the level of diesel exhaust as someone riding in a car ahead of it. Diesel school buses also pollute neighborhoods and school yards, releasing particulate matter pollution, toxic air pollutants, and heat-trapping carbon dioxide. Diesel fumes from idling school buses exacerbate asthma, allergies and chronic bronchitis and contribute to a compromised immune system. These effects are worse in children because they breathe at a faster rate than adults and have been shown to have a direct effect on absenteeism.

The Rebuilding American Infrastructure Sustainability & Equity (RAISE) grant for conversion to electric buses was for up to \$7 million and required SUSD to add matching funds of \$2 million over a three-year period.

At the June 30, 2021, Board meeting, SUSD staff recommended approval for submission of application for the \$7 million RAISE grant (BAI 8.1). The agenda item was prepared by the CBO and reviewed by the Superintendent. The agenda item specified that General Funds would be used as the source for the matching funds, although department staff had indicated federal guidelines permitted the use of ESSER funds. In discussion prior to Trustees voting, the

Superintendent twice clarified that General Funds would be the funding source; the Superintendent also reminded the Board that the General Fund is “where we have most of our gaps,” a reference to the anticipated budget shortfall. There was no need to use General Funds for the grant application.

Contrary to the staff recommendation, the Board voted against applying for the grant, thus missing an opportunity to leverage one-time ESSER funds to address the mandate for conversion to electric vehicles.

## Findings

**F1.3.1** The elimination of the Stockton Unified School District Grant Development Office in a February 2021 District reorganization resulted in grants no longer being monitored by a specific department or individual, risking additional and unnecessary spending from the General Fund.

**F1.3.2** Stockton Unified School District does not identify and pursue all grant opportunities due to a lack of coordinated leadership, potentially resulting in unnecessary spending from the General Fund, contributing to a budget shortfall and missing opportunities for additional funding for the benefit of the students.

## Recommendations

**R1.3.1** By December 30, 2022, the Stockton Unified School District Board of Trustees reinstate the Grant Development Office to identify grant opportunities and apply for and monitor all grant applications. Reinstatement of the Grant Development Office will facilitate project and cost management.

**R1.3.2** By December 30, 2022, the Stockton Unified School District Board of Trustees approve the reinstatement of a grant writer position within the Grant Development Office to explore grant opportunities for programs, facilities and services to assist in minimizing the risk of a Stockton Unified School District budget deficit.

## 1.4 Purchasing Inconsistencies

There are three primary means by which goods and services may be purchased:

- IFB: An Invitation for Bid, also called an invitation to bid or sealed bid, is a call to contractors to submit a bid for a specific product or service.
- RFQ: A Request for Qualifications usually refers to the **pre-qualification stage** of the procurement process. Only those proponents who successfully respond to the RFQ and meet the qualification criteria will be included in the subsequent Request for Proposals (RFP) solicitation process.
- RFP: A Request for Proposal is a business document that announces a project, describes it, and solicits detailed proposals from **qualified** contractors to complete it.

SUSD School Bid Guidelines and Exceptions, published October 26, 2021, states both an IFB and RFP are used in the District purchasing process. The use of an RFQ is not mentioned in that document; however, a pre-qualification process is being utilized for the Arthur Coleman Jr.

Administrative Complex Renovations Project. While basic steps are listed for both IFB and RFP, it is difficult to locate these steps as they are listed in Bid Guidelines but not in Purchasing Policies. Use of these documents reflect an inconsistency in policies and procedures.

### **Request for Proposal Process**

The use of an RFP is considered a best practice in the procurement process by the California Association of School Business Officers (CASBO). RFP notices are published in local media and on appropriate websites. Responses to the RFP detail the specifics of the purchase or project including work to be done, products to be furnished, time requirement, cost and any contingency provisions.

Through the RFP process, vendors offer an array of potential solutions and prices. The organization evaluates the competing solutions, picking the one that best provides for the business need. In accordance with CASBO best practices, consistent use of an RFP, regardless of dollar amount, can lead to better solutions.

In March 2021, SUSD hired FCMAT to conduct a review of the District's budget and District-selected Facility Department projects. This FCMAT report states it is a best practice to procure professional services through a qualifications-based selection process. Besides an RFP, the process should also include the use of a Request for Qualifications (RFQ). FCMAT noted, "The district is not consistent in its use of a qualifications-based selection process. The district recently hired a firm to provide a financial management and bond accounting and reporting system, including installation, set up, training and monthly consulting services. FCMAT found no evidence of a qualifications-based selection process for these services. The district did not follow its policies that require the completion of a Consultant Utilization Form, which provides information on qualifications, reasons for needing the service, and funding source."

The District's Board Policy 3600 requires use of the Consultant Utilization Form (Appendix C) for all non-instructional consultants. The form is to be included in all Board agenda items recommending use of a consultant.

FCMAT found little evidence of a qualifications-based selection process for consultant services. FCMAT also found the District did not consistently follow its own policy requiring the completion of the Consultant Utilization Form. For example, a completed Consultant Utilization Form was included in the Board agenda item regarding approval of TSS services. However, there is no evidence that a qualifications-based selection process was employed for these services.

Neither SUSD Board Policy 3310–Purchasing Procedures (BP3310) nor Administrative Regulation 3310 – Purchasing Procedures identify the procedures or use of an RFQ or RFP for purchasing products and services. BP 3310 states, "The Superintendent or designee shall maintain effective purchasing procedures in order to ensure that maximum value is received for money spent."

On February 1, 2022, the District revised the SUSD Districtwide Purchasing Guidelines. The Guidelines stipulate the formal bid threshold for 2022 to be \$99,100. Therefore, purchases of

more than \$99,100 require an RFP and formal bidding process, but no explanation of RFP procedures is included in the Purchasing Guidelines.

Another SUSD document, School Bid Guidelines and Exceptions, published October 26, 2021, states both an IFB and an RFP are used in the District purchasing process. While basic steps are listed for both IFB and RFP, it is difficult to locate these steps as they are listed in bid guidelines but not in purchasing policies. These documents reflect an inconsistency in policies and procedures.

### **Alliance/IAQ**

At the January 12, 2021, Board meeting a Trustee introduced Alliance Building Solutions, Inc. as a vendor presenting on UVC disinfectant technology. The same Trustee suggested that the vendor be considered as a provider of that technology. The practice of a trustee recommending a vendor is unusual and may be considered or perceived as a conflict of interest. Furthermore, the initial Alliance proposal states, “In **working with your team**, we have been able to develop a customized sanitation strategy through analyzing the following...,” indicating potential evidence that the contractor was provided preconstruction or consulting services related to the project. As the terms and conditions (Section 2.2.3 Board and Staff Communications) of the RFP state, “Under no circumstances may any member of the District or any staff member, other than the contact permitted in Section 1.6, be contacted during this RFP process, by any entity intending to submit a response to this RFP. Failure to comply with the request will result in **disqualification.**”

At the Superintendent’s request, RFP No. 1047 was issued March 1, 2021, for “Ultraviolet Germicidal Irradiation.” The need for RFP No. 1047 had not been established. Systems and equipment already in place at SUSD sites had been tested and found to be effective against viruses and germs. No RFQ for RFP No. 1047 was issued. Alliance responded but was unable to meet the specifications of the RFP. Staff was directed to extend the submission deadline and revise the specifics.

When the staff reviewed vendors responding to the revised RFP, only one vendor was recommended for award of contract: Aerapy Solutions. With only one vendor meeting the criteria, staff recommended that all bids be rejected. A new RFP was prepared with revised specifications.

On May 4, 2021, SUSD issued RFP No. 1051, the new RFP for “Ultraviolet Germicidal Irradiation.” Two vendors were recommended for advancing to the Board for consideration and possible approval: Aerapy LLC and Pacific Metro Electric. Alliance was noted as “nonresponsive” and, therefore, not eligible for consideration.

An addendum was attached to RFP No. 1051 and again published to invite proposals; Alliance was again “nonresponsive,” but a new vendor, IAQ Distribution Inc., responded to the RFP. IAQ is a subsidiary of Alliance, the company that presented to the Board in January and failed to meet the criteria for consideration three times. With the change to the RFP, staff

recommended two vendors, Aerapy LLC and Cello Lighting, to advance to the Board; IAQ Distribution Inc. was not recommended.

The Superintendent subsequently requested a pool of five vendors to make presentations to the Board. Staff produced a scoring summary for each of the five vendors. IAQ scored the lowest with 97.41 out of 150 points.

A Special Board Meeting was held July 14, 2021. BAI 6.1 was for approval of a vendor to supply a UVC disinfection system. Each vendor made a five-minute presentation to the Board. After the presentations, the Board President moved to approve IAQ's proposal for a \$7.3 million agreement. The motion carried. Minutes for this meeting have not been approved nor posted, but a recording of the meeting is available.

At the August 10, 2021, Board meeting a motion to approve the contract with IAQ passed. Minutes for this meeting have not been approved nor posted, but a recording of the meeting is available. Terms of payment stated that IAQ could invoice SUSD for 50% of the contract value within 10 days of signing the contract. Documents show that SUSD paid IAQ \$2.9 million in August 2021.

A May 26, 2022, search of the California Secretary of State website shows no listing of IAQ as registered to conduct business in California. The estimated delivery and installation schedule for the UVC units indicate a start date of October 25, 2021, and a completion date of January 24, 2022. However, installation did not begin until January 17, 2022, and was halted late March 2022 pending the resolution of IAQ's registration status and possible labor violations. At the time of this report, 1,400 of the 2,000 units ordered had been delivered; only 802 had been installed.

### **Legal Services**

Board Bylaw 9124 states, "When the district is seeking legal advice or representation, the Superintendent or designee shall initiate an RFP to advertise and solicit proposals for legal services. The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the **unique** demands of a particular issue or emergency situation so requires...." The District consistently does not use the RFP process, and the Board does not engage in discussion of justification to circumvent BB9124. The 2020-2021 Grand Jury Report also highlighted this concern relating to the selection process for legal services: "There was no RFP, no acceptance of multiple proposals, no interviews, and no scoring rubric. The contract was approved at a public meeting as required by law, however, according to public statements by some board members, they had not been informed of the details, and had not seen the contract before the special meeting."

### **El Concilio**

RFP No. 1066 for expanded learning activities was issued on February 22, 2022. Proposals were due March 11, 2022. The April 12, 2022, SUSD BAI 14.1 listed a pool of vendors for approval. The only information provided was the scoring summary matrix completed by staff for the four vendors in the pool:

Supplier	Total Points	Proposed Plan (30 pts)	Vendor Capabilities (30 pts)	Financial Proposal (40 pts)
<b>Concilio</b>	76.5	29.5	224.5 <i>(sic)</i>	22.5
<b>Carnegie</b>	90.5	30	28.75	31.75
<b>UOP</b>	87	30	28.75	28.75
<b>EDMO</b>	83.25	26.75	27	29.5

April 12, 2022, SUSD BAI 14.1

The BAI lacked any attachments of the program proposals such as descriptions of the programs and/or services and costs. The scoring matrix showed El Concilio as the lowest in two categories, Vendor Capabilities and Financial Proposal, and as the lowest in Total Points. The Board voted to approve the pool of vendors.

The April 26, 2022, BAI 6.38 requested approval of a Memorandum of Understanding (MOU) with El Concilio. The amount of the contract was \$18,000–\$500,000 with \$18,000 per group of 20 students and one staff member. Attachments included the original proposal and a document referred to as the MOU.

Six community members spoke regarding this item. All six spoke against approval, citing numerous concerns:

- the need to negotiate with SUSD bargaining units;
- paying for repairing/retrofitting the former site of the Stockton Boys & Girls Club at 303 Olympic Circle, Stockton, California;
- the question of ownership of items purchased for the programs once the program “goes away”;
- El Concilio’s links to charter schools and charter school associations; and
- a possible Trustee conflict of interest.

Some Trustees also voiced concerns regarding the Olympic Circle site, the possible need to negotiate with District bargaining units, a preference for “in house” programs, and possible elimination of current SUSD after-school facilitators.

The District administrator who approved the recommendation of the agreement with El Concilio noted, “in the spirit of our LCAP 3..., it was desired to give El Concilio an opportunity to revise the MOU.” A Trustee mentioned that the same consideration should be given to other vendors. The motion to approve the MOU with El Concilio failed on a tie vote.

El Concilio’s original proposal listed the location of 303 Olympic Circle at least three times: as the El Concilio Community Resource and Education Center for SUSD, as the location of some of the after-school programs and services, and as the site for the summer day camp. The proposal stated that the site needs “minimal repairs and maintenance.” The proposed annual budget of \$8.2 million included the yearly rental of 303 Olympic Circle at \$120,000. An additional \$239,250, a one-time expenditure for start-up costs, was requested with approximately \$30,000 for the following improvements:

- alarm and security setup,
- facility repair and painting,
- gym floor repair and refinishing,
- electrical upgrades,
- door and lock re-key,
- clean up and garbage removal, and
- phone and internet installation.

Another \$45,635 was requested for purchase of equipment (25 computers and peripherals, TV monitors, pool and ping pong tables, and furniture).

An SUSD addendum to El Concilio’s proposal stated, “The contractor must be able to cover all costs of operation. No start-up funds or advanced payments will be provided.” Witnesses confirmed that providers must be ready to deliver proposed services, a standard practice expectation.

The next Board meeting, May 10, 2022, included BAI 6.48 for approval of a new MOU with El Concilio to provide enrichment activities; no other pool-approved vendor was brought to the Board for consideration. The MOU was vague and incomplete, lacking any mention of staff qualifications, daily schedule, hours of service, staff to student ratios, or projected number of students to be served. In the public comment portion of the meeting, at least 12 community members spoke against approval of the MOU with El Concilio; no speaker voiced support. A Trustee mentioned that SUSD had received a cease-and-desist letter from California School Employees Association regarding approval of El Concilio proposals and asked why the Board was even discussing approval. No details of the cease-and-desist were shared. The Board approved the MOU with El Concilio.

## **Findings**

**F1.4.1** Stockton Unified School District’s purchasing policies and procedures are not clearly defined, allowing for deviation from California Association of School Business Officers best practices by the Business Services Department.

**F1.4.2** Stockton Unified School District’s purchasing policies and procedures are not clearly defined, causing inaccurate evaluations of actual cost and delivery of products and services.

**F1.4.3** Stockton Unified School District is inconsistent in use of Invitation for Bid, Request for Qualifications and Request for Proposal, resulting in providers not being strategically vetted and thereby allowing opportunity for misuse of funds and/or malfeasance.

**F1.4.4** Stockton Unified School District inconsistently uses a Request for Proposal for legal services as required by Board Bylaw 9124, potentially resulting in greater costs for legal services.

**F1.4.5** The Board of Trustees routinely disregards Stockton Unified School District staff recommendation and analysis of Request for Proposals, potentially causing the hiring of lesser qualified and/or more costly vendors.

## **Recommendations**

**R1.4.1** By September 30, 2022, Stockton Unified School District Board of Trustees develop, adopt, and implement a revised Board Purchasing Policy 3310 to include clear policies and procedures for use of Invitation for Bid, Request for Qualifications and Request for Proposal.

**R1.4.2** By November 1, 2022, Stockton Unified School District Board of Trustees develop, adopt, and implement a training program and training schedule for administration, department heads and purchasing staff on the use of Invitation for Bid, Request for Qualifications and Request for Proposal.

**R1.4.3** By September 30, 2022, Stockton Unified School District Board of Trustees publicly agree through a Board resolution to adhere to Board Bylaw 9124 by requiring a Request for Proposal for all legal services.

**R1.4.4** By September 30, 2022, Stockton Unified School District Board of Trustees publicly agree through a Board resolution to require and consider staff recommendations and scoring matrixes prior to voting on any Request for Proposal.

**R1.4.5** By September 30, 2022, The Board of Trustees pass a resolution affirming Board Policy 3310, SUSD Districtwide Purchasing Guidelines, and Administrative Regulation 3310 and direct the Superintendent to follow these Policies, Guidelines and Regulations.

## **1.5 Legal Services Billing**

SUSD uses several legal firms for litigation, investigations, Board services and miscellaneous legal services. According to the American Bar Association, the first two best practices for legal billing of services are “be descriptive and avoid block billing.” ABA best practices recommend that invoices include the actual service performed, by whom (e.g., clerk, paralegal, lawyer), for how long and at what monetary rate. SUSD invoices for legal services lack such details and provide only an accounting code and total dollar amount.

A review of legal contracts and invoices for SUSD over the past year shows that since July 1, 2021, the District has contracted with six firms for legal services. Invoices from those six firms cover the 10-month period from July 1, 2021, to April 30, 2022, and total \$1.2 million. It is reasonable to project that legal costs could reach a total of \$1.4 million by June 30, 2022. For comparison purposes, total legal costs for the fiscal year 2020-2021 were approximately \$900,000. Projected legal costs for the current fiscal year represent an approximate 59% increase over the prior fiscal year.

## **Finding**

**F1.5.1** Lack of detailed billing and incomplete invoices for Board review creates risks of paying for services not received.

## **Recommendation**

**R1.5.1** By October 1, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy that requires legal firms to provide detailed billing information as prescribed by the American Bar Association.

### **1.6 Consulting Services**

The Grand Jury reviewed SUSD Board meeting agendas and agenda packets from July 1, 2021, to April 12, 2022, to analyze SUSD Consultant Utilization Form and Agreement to Furnish Consultant Services (Appendix C). Over 160 forms were reviewed and analyzed. Approximately 35% contained only the total amount of compensation with no terms of how or when payment would be made. Many of the remaining 65% lacked clear terms for when invoices would be submitted and when payment would be made.

SUSD staff and management routinely prepare and submit for Board approval agreements that lack clear specifications as to when and how invoices will be submitted and how payment will be made.

Many consultant forms are incomplete, lack terms of payment, do not indicate other less expensive options or do not include a clear statement of potential impact on the District. Specificity regarding how services will be measured is often missing. When a signature is illegible, the identity of the signer is difficult to verify. There is no place on the document for a printed name.

On at least one occasion SUSD paid in full for services not rendered. The agenda for the September 14, 2021, SUSD Board meeting included BAI 11.6 for approval of a service agreement with Educational Consulting Services, Inc. to provide an attendance recovery program (Saturday school). Startup cost was \$150,000 from ESSER funds. The agenda stated a service date of October 1, 2021—June 30, 2022. The agreement was approved by the Board unanimously. Terms of payment listed in an attachment state that the one-time \$150,000 implementation fee would be due no later than 30 days after Board approval.

Ten pages of documents completed by both the consultant and SUSD management contain numerous conflicting statements and omissions. Dates of the service on the agreement vary significantly from those shown on agendas. Omissions on some document pages included the name of the SUSD designee to review and monitor the performance and program, the total amount of funds to be spent, or a response to the availability of any internal or less expensive options. According to the SUSD BAI 6.14 on December 14, 2021, ECS was paid the full implementation fee of \$150,000 in November 2021. Witnesses confirmed that services from ECS never occurred and indicated that payment to vendors prior to the receipt of service is not appropriate.

## Findings

**F1.6.1** Consultant forms are accepted and forwarded to the Board without all sections completed and/or answered appropriately, impairing the Board's ability to make informed decisions.

**F1.6.2** Stockton Unified School District paid at least one consultant for services not delivered, resulting in a misuse of public funds.

## Recommendation

**R1.6.1** By October 1, 2022, the Board of Trustees direct the Superintendent to adhere to Stockton Unified School District Board Policy E 3600 and require all Consultant Forms be complete and accurate prior to presentation to the Board.

### 1.7 District Deficit and Risk of Insolvency

Per the FCMAT Work Study presented to the Board of Trustees on February 8, 2022:

“The district’s 2020-2021 unaudited actuals report shows deficit spending of \$5.8 million in the unrestricted general fund, and the MYFP (Multi Year Financial Projection) developed by FCMAT indicates deficit spending of \$9.9 million in 2022-2023. However, the district has moved many ongoing expenses, including salaries and benefits, into one-time funds.”

SUSD will face a significant budget deficit in the 2024-2025 fiscal year. FCMAT estimates that the District is currently spending \$26.3 million per year of ESSER funds on salaries, benefits and services that **“appear to be essential to the organization.”**

All one-time funds received from ESSER funding must be spent by January 28, 2025. Once ESSER funds are exhausted, the District will have to rely on recurring funding streams such as taxes, bonds and grants to support District operations.

There will be a significant budget deficit in fiscal year 2024-2025, although it is unknown what the actual budget deficit might be due to the limitations of the District’s accounting system. As noted earlier, the BSD is not staffed to operational levels necessary to insure proper fiscal management.

The District faces other anticipated fiscal challenges that create additional concern:

- decrease in State funding based on average daily attendance,
- potential increases in costs for employee health and welfare benefits, and
- increased employer contributions for pension plans.

## Findings

**F1.7.1** Stockton Unified School District current budget projections indicate there will be a budget deficit of more than \$30 million in fiscal year 2024-2025, a deficit which could cause layoffs and elimination or reduction of student programs.

**F1.7.2** Stockton Unified School District has no plan in place to deal with deficit spending, putting Stockton Unified School District at risk of fiscal insolvency.

**F1.7.3** Stockton Unified School District Departments do not have clear operational budgets, decreasing the effectiveness of planning and implementation of student-focused decision making.

**F1.7.4** Stockton Unified School District has no defined and documented plan to pay for essential and on-going costs once one-time funds are depleted or unavailable, increasing the risk of General Fund depletion.

**F1.7.5** Stockton Unified School District has no Multi-Year Financial Projection to monitor the one-time fund expenditures as Stockton Unified School District moves into 2022-2023, potentially causing the projected deficit to occur earlier.

## **Recommendations**

**R1.7.1** By December 1, 2022, the Stockton Unified School District Board of Trustees, in conjunction with the Superintendent, develop, adopt and implement operational budgets that address projected deficit spending for the District and all departments.

**R1.7.2** By October 1, 2022, Stockton Unified School District Board of Trustees develop, adopt and implement a documented plan to identify the essential ongoing costs that are being funded by one-time money and revise the budget to reflect the impact to the General Fund.

## **2.0 Duty of Care**

“In laymen’s terms, duty of care stands for the principle that the directors and officers of an association, in making decisions in their official capacities, must act in the same manner as a reasonably prudent person would for themselves under similar circumstances. As such, every decision made by the board of directors should be (i) within the confines of the authority granted to the board by an association’s governing documents (i.e., Declaration, Article of Incorporation, and/or Bylaws); (ii) made after reviewing all pertinent information and conducting reasonable due diligence; (iii) supported by advice of experts (where appropriate); and (iv) reasonably believed to be in the best interests of the association.”

<https://www.caidc.org/duty-of-care-and-what-it-really-means-for-board-members/>

Numerous Board agenda items from the last two years were reviewed to assess for Board “Duty of Care” proficiency. In some instances, only the RFP scoring matrix was included in the Board agenda with no other supporting documentation. The actual RFP, responses that showed the scope of the work and capabilities of the vendors, and SUSD staff analysis were not always included.

In numerous recordings of SUSD Board meetings where large contracts were awarded, there was minimal, if any, discussion regarding the advantages and disadvantages of the proposed item. In some cases, the discussion was cut short by the Board President or by a point of order.

Many of these contracts were included in the agenda as consent items rather than discussion items.

The CSBA offers Masters in Governance Training, described as: “Masters in Governance program equips local education agencies with the knowledge and skills to build and support an effective governance structure.” The five-part CSBA Masters in Governance Training consists of:

MIG Course 1: Foundations of Effective Governance | Setting Direction

MIG Course 2: Policy & Judicial Review | Student Learning & Achievement

MIG Course 3: School Finance

MIG Course 4: Human Resources | Collective Bargaining

MIG Course 5: Community Relations and Advocacy | Governance Integration.

Review of coursework revealed three Trustees have completed all five MIG courses, three Trustees have completed “some” MIG courses, and one Trustee did not attend the 2021 Brown Act CSBA training or complete any of the five MIG courses.

When asked about multi-million-dollar contracts approved since January 1, 2022, Trustees could not recall how they voted, what the services were, or if it was a one-year or multi-year contract.

## **2.1 Conflict of Interest**

“The PRA (Government Code 87100-87500.1) requires all public agencies, including school districts and county offices of education (COEs), to adopt a conflict-of-interest code and to review that code biannually. The law requires that the conflict-of-interest code contain three components: 1. An incorporation statement, which states the terms of the code and incorporates relevant Fair Political Practices Commission (FPPC) regulations by reference. 2. Designated positions, which lists the specific positions in the district/COE that make or participate in making governmental decisions. 3. Disclosure categories, which specify the types of investments, income and interests in property that must be disclosed by each person holding a designated position.”

CSBA Fact Sheet, July 2010

According to BB 9270, “no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.”

According to filings on the California Secretary of State website, a Trustee was named as an officer of a local nonprofit board located at 303 Olympic Circle, Stockton, an address cited as a base of operation in the El Concilio proposal. During the Board meeting, the Trustee failed to disclose the perceived conflict of interest or to recuse themselves from the vote regarding the El Concilio MOU and RFP 1066.

## Findings

**F2.1** The Stockton Unified School District Board of Trustees has shown disregard for Board Bylaw 9270, Conflict of Interest, contributing to an appearance of impropriety that may diminish the integrity of the District.

**F2.2** Not all Stockton Unified School District Board of Trustee members have completed the California School Board Association Masters in Governance training program, leaving them inadequately trained in Board duties and responsibilities.

## Recommendations

**R2.1** By October 1, 2022, all members of the Stockton Unified School District Board of Trustees complete all five of the California School Board Association Masters in Governance training courses.

**R2.2** By October 1, 2022, Stockton Unified School District Board of Trustees provide Board members' California School Board Association certifications of completion of Masters in Governance training to the public in accordance with the California Public Records Act.

**R2.3** By October 1, 2022, Stockton Unified School District Board of Trustees post Board members' California School Board Association certifications of completion of Masters in Governance training on the District website.

## 3.0 Lack of Transparency

“Public transparency refers to how well school boards maintain open and honest lines of communication with citizens and keep them informed on decisions that are made in the best interests of the district. From the perspective of school boards of directors, the public is always watching and waiting to see how well they uphold their responsibilities of governance and oversight. In this position, school boards are expected to be as open as possible concerning board discussions and any decisions that will be made on behalf of the district. Especially because school boards determine and oversee initiatives focused around student success, concerned family members and community members are likely to feel untrusting of the district's school board if they suspect that any business is being conducted behind closed doors.”

<https://www.diligent.com/insights/public-transparency-key-school-boards/>

SUSD receives public money; Trustees should hold themselves to the highest standard and expectation of transparency. There are difficulties reviewing Board actions because many Board meeting minutes are not publicly posted (Appendix D). According to Ed Code §35145a, “Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.” Furthermore, as SUSD BB 9324 states, “The Governing Board recognizes that maintaining accurate minutes of Board meetings helps foster public trust in Board governance and provides a record of Board actions for use by district staff and the public.” A comparison of Board minutes from the other 13 school districts in San Joaquin County to those of SUSD shows the SUSD Board minutes are

not as comprehensive as all other County school districts. SUSD minutes include no general discussion regarding Trustee activity while all other districts' minutes do. Additionally, not all SUSD Board minutes have been approved and/or posted for public review (Appendix D). SUSD did not fully comply with this Grand Jury's subpoena for specific Board minutes and recordings.

On another occasion, a requested recording of the October 26, 2021, Board meeting was not available due to "technical difficulties." A link was provided to the Grand Jury to listen to the recorded meeting; however, it was only available in Spanish. The Grand Jury utilized the services of a Certified Court interpreter. The interpreter was unable to accurately translate the recording due to the SUSD translators' inability to identify who was speaking, the topic discussed and any Board action taken. While a transcript of the Board meeting was produced in English by a Certified Court interpreter, the SUSD Spanish translation made it difficult to understand.

The 2022 FCMAT report cites similar difficulty in obtaining relevant documents:

"FCMAT requested but did not receive district documentation for all funding sources, so the team made some assumptions regarding revenues based on information found on the CDE website, analysis of prior year receipts, and district budget amounts."

FCMAT SUSD Final Report 2022, page 9

Compared to similarly sized California school districts surveyed, only SUSD continued in a remote meeting format throughout 2021. It was not until April of 2022 that the Board of Trustees returned to in-person meetings. Board meetings are Zoom recorded and made available at a later date on YouTube, but livestreaming is no longer available.

## Findings

**F3.1** Lack of Stockton Unified School District Board of Trustee meeting minutes posted publicly and/or timely per Board Bylaw 9324, Minutes and Recordings, and Ed Code §35145a creates diminished public awareness of the actions of the Board of Trustees.

**F3.2** The absence of general discussion in Board minutes diminishes Board accountability and public transparency, leaving District constituents ill-informed of District issues that could have adverse effects on the students.

**F3.3** Board agenda packets are often missing important information, a violation of Board Bylaw 9324, Agenda/Meeting Materials, contributing to ill-informed decision making which could adversely impact students and constituents.

**F3.4** Lack of public discussion on Board agenda items creates an appearance of business being conducted "behind closed doors" and fosters mistrust among District staff and constituents.

**F3.5** Lack of certified translators for Board meetings causes inaccurate and nontransparent translations of public meetings.

## **Recommendations**

**R3.1** By September 1, 2022, Stockton Unified School District Board of Trustees agendaize and approve Board minutes at the following Board meeting to optimize public information and transparency in accordance with Board Bylaw 9324.

**R3.2** By September 1, 2022, Stockton Unified School District Board of Trustees amend Board Bylaw 9324 Minutes and Recordings, to require posting Board minutes on the Stockton Unified School District website within 30 days of Board meetings to optimize transparency.

**R3.3** By August 15, 2022, Stockton Unified School District Board of Trustees follow Board Bylaw 9324.2 by including a summary of Board discussion in meeting minutes.

**R3.4** By August 15, 2022, Stockton Unified School District Board of Trustees adhere to Board Bylaw BB 9322 Agendas/Meeting Materials and direct the Superintendent to ensure all Board agenda packets have completed forms, with no blank spaces or incomplete details and information.

**R3.5** By October 1, 2022, Stockton Unified School District Board of Trustees utilize professional services of a certified Spanish translator for all Board meetings to insure accurate translation of all public meetings. This will ensure transparency.

**R3.6** By November 1, 2022, the Stockton Unified School District Board of Trustees, during a public meeting, discuss each finding and recommendation of this full Grand Jury report as a separate Board agenda discussion item.

## **Conclusion**

With deficits approaching \$30 million per year by fiscal year 2024-2025, the financial forecast for Stockton Unified School District is dire. Expenses that would normally be paid with ongoing funding sources are instead being covered by one-time ESSER funds; many of these expenses will continue once the limited-time funding expires in 2024. Grants, which can be a valuable tool in implementing key projects, are not being managed appropriately. Leadership and staff with the experience to address these critical issues are departing the District, necessitating the hiring of outside consultants to cover essential duties and train Business Services staff. The District has yet to develop a master plan that indicates how the combined ESSER funds totaling \$241.5 million will be spent by 2024 and a master plan that addresses the challenge of the projected deficits.

The Board of Trustees, who are charged with the responsibility to make decisions in the best interest of the District, community, and students, often makes crucial decisions with minimal data, knowledge and consideration. A lack of transparency and apparent conflicts of interest exist. District, State and federal guidelines and policies are regularly overlooked. These multiple failures reduce District staff and public trust and confidence in the District.

At a time when SUSD is considering a bond measure for the November 2022 ballot, addressing the above issues promptly and decisively is essential.

The Stockton Unified School District Board of Trustees, in conjunction with the Superintendent and administration, must make difficult decisions and implement stringent policies and procedures to prevent deficit spending from rendering the District fiscally insolvent. According to FCMAT, the AB139 Extraordinary Audit will be completed in 12-18 months. If the results of the Extraordinary Audit indicate financial mismanagement, misuse of funds or insolvency, the result could place SUSD in State receivership administered by the San Joaquin County Office of Education. Receivership could include the termination of the Superintendent and suspension of the Board of Trustees as a decision-making body.

One-time funding can temporarily mask an ongoing operational deficit. The Board of Trustees needs to remove this mask, demonstrate genuine duty of care and proactively confront the challenges of managing the District with only ongoing funding sources. In order to best serve the students and families of the District, Stockton Unified School District must prepare for critical financial issues now and in the future.

### **Disclaimers**

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

<p>This report was issued by the Grand Jury with the exception of one juror who, due to a potential conflict of interest, recused themselves from all parts of the investigation, including interviews, deliberations, and the writing and approval of the report.</p>
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### **Response Requirements**

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

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

Honorable Michael D. Coughlan, 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).

## Appendices

### Appendix A: FCMAT Indicators 8/14/2019

# Indicators of Risk or Potential Insolvency

## FOR K-12 LOCAL EDUCATION AGENCIES

The Fiscal Crisis and Management Assistance Team (FCMAT) has compiled the following indicators of risk or potential insolvency based on experience with local education agencies since the inception of AB 1200 in 1991. Although some of the indicators have been on the list since first published, others have been removed or added as changes occurred, such as the evolution in funding models and changes in education and finance policy. These indicators will continue to be updated over time to ensure they remain relevant and helpful.

Each item listed indicates a lack of function, commitment, or attention to one or more critical elements of an organization's operations, which may eventually contribute to an LEA's insolvency. The existence of any one of the indicators increases risk of potential insolvency and the need for assistance from outside agencies. Lack of attention to these indicators will eventually lead to financial insolvency and loss of local control.

Identifying issues early is the key to maintaining fiscal health. Diligent multiyear planning will enable a district to better understand its financial objectives and strategies to sustain a high level of fiscal efficiency and overall solvency. A district should consider discussing the indicators regularly and complete a Fiscal Health Risk Analysis (FHRA) annually to assess its own fiscal health risk and progress over time.

## 1. Unreliable Budget Development

- Budget has been disapproved or conditionally approved by the county office within the last two years
- Unreasonable and/or unclear budget assumptions
- Reliance on prior-year rollover budget method
- Position control data not used
- Local Control Funding Formula (LCFF) revenue not calculated correctly
- Reliance on carryover funds
- One-time sources utilized for ongoing expenditures
- Expenditures described in the LCAP not aligned with the budget

## 2. Insufficient Budget Monitoring or Updates

- Failure to regularly update budget assumptions
- Negative or three consecutive qualified interim report certifications
- Downgrade of an interim certification by the county superintendent
- "Lack of going concern" designation from the county superintendent
- Actual revenues and expenditures inconsistent with the most current budget
- Budget revisions not posted in the financial system or communicated to the board regularly

- Lack of control or monitoring of total compensation as a percentage of total expenses
- Failure to regularly reconcile balance sheet accounts in the general ledger
- Incomplete responses to criteria and standards variances or deficiencies identified by the county office of education
- Requisitions or purchase orders processed when the budget is insufficient

### **3. Inadequate Cash Management**

- Failure to reconcile cash accounts monthly
- 18-month cash flow not forecast
- Lack of short-term plan to address cash flow needs
- Noncompliance with Education Code requirements when interfund borrowing is occurring
- Failure to set aside repayment funds when external borrowing is occurring
- Lack of communication to the board about the district's cash position (with a clear distinction that cash and fund balance are not the same thing)

### **4. Mismanaged Collective Bargaining Agreements**

- Failure to consider long-term impact of collective bargaining agreements
- Lack of bargaining agreements with all units for several years with no resources identified to cover potential settlements
- Presettlement analysis not conducted thoroughly or timely
- Settlements above the funded cost of living adjustment (COLA)
- Lack of compliance with public disclosure requirements under Government Code Sections 3540.2, 3543.2 and 3547.5 and Education Code Section 42142
- Board approval of collective bargaining agreement is inconsistent with superintendent's and CBO's certification

### **5. Increasing and/or Unplanned Contributions and Transfers**

- Insufficient control and monitoring of contributions and transfers
- Lack of a board approved plan to eliminate, reduce, or control contributions/transfers
- Transfers from the unrestricted general fund not made when needed to cover projected negative fund balances in other funds
- Contributions/transfers to restricted programs and/or other funds not budgeted

### **6. Continuing Deficit Spending**

- Deficit spending in the current or two subsequent fiscal years
- Not having or implementing a board-approved plan to reduce and/or eliminate deficit spending
- Not decreasing deficit spending over the past two fiscal years

## 7. Mismanaged Employee Benefits

- Actuarial valuation not completed in accordance with Governmental Accounting Standards Board (GASB) requirements to determine the unfunded liability for other post-employment benefits (OPEB)
- Lack of a board adopted plan to fund health and welfare retiree benefit liabilities
- Nonexistence or noncompliance of a policy or collectively bargained agreement to limit accrued vacation balances
- No verification and determination of eligibility for benefits for all active and retired employees and dependents in the last five years
- Compensated leave balances not tracked, reconciled and reported

## 8. Inattention to Enrollment and Attendance Reporting

- Enrollment decreasing and/or unstable
- Enrollment and average daily attendance (ADA) data not monitored and analyzed at least monthly through P2
- Consistently inaccurate data reported through CALPADS and other state reporting
- Enrollment projections and assumptions not based on historical data, industry-standard methods, and other reasonable considerations
- CALPADS data not reviewed and verified by applicable sites and departments and corrected as needed before the report submission deadlines
- Unplanned or unmonitored effects of enrollment losses to charter schools
- Board policy to limit outgoing interdistrict transfers is nonexistent, or policy is not followed

## 9. Decreasing Fund Balance and Reserve for Economic Uncertainty

- Failure to accurately estimate the ending fund balance
- Failure to maintain the minimum reserve for economic uncertainty
- If unable to maintain the minimum reserve for economic uncertainty, a board-approved plan to restore the minimum reserve for economic uncertainty does not exist
- Projected unrestricted fund balance not stable or not increasing
- Unrestricted fund balance does not include assigned or committed reserves above the recommended reserve level when unfunded or contingent liabilities or one-time costs exist

## 10. Ineffective Internal Controls and Fraud Prevention

- Lack of controls that limit access to the financial system
- Access and authorization controls to the financial system not reviewed and updated upon employment actions (e.g., resignations, terminations, promotions or demotions) and at least annually
- Duties in accounts payable, accounts receivable, purchasing, contracts, payroll, human resources, associated student body, and warehouse/receiving not segregated, supervised or monitored

- Beginning balances for the new fiscal year not posted and reconciled with the ending balances from the prior fiscal year
- Prior year accruals not reviewed and cleared by first interim
- Suspense accounts not reconciled regularly
- General ledger not reconciled or closed timely
- Inadequate processes and procedures in place to discourage and detect fraud

## **11. Breakdown in Leadership and Communication**

- Uninformed decisions made because the system(s) can't provide key financial and personnel data needed
- Instability in the chief business official or superintendent positions (been with the district less than two years)
- Lack of regular communication between the superintendent and all members of the administrative cabinet
- Timely training on financial management, budget and governance not provided to site and department administrators who are responsible for budget management and decision-making
- Board policies and administrative regulations routinely ignored, not adopted, updated, implemented or communicated to staff
- Micromanagement by board members
- Systems fully or partially controlled by highly influential special interest groups

## **12. Lack of Multiyear Planning**

- Unreasonable and/or unclear multiyear projections that are not aligned with industry standards
- Failure to explain trend analysis
- LCFF calculation not prepared with multiyear considerations
- Financial decisions made without most current multiyear projection in mind
- Detailed information not included when "other adjustments" is used with multiyear projections (line B10)

## **13. Inattention to Non-Voter-Approved Debt and Risk Management**

- Sources of non-voter-approved debt repayment unstable, unpredictable and from the unrestricted general fund
- Downgrade of credit rating
- Out-of-date actuarial study without a plan to pay for any unfunded liabilities when self-insured
- High levels of non-voter-approved debt (such as COPs, bridge financing, BANS, RANS and others), with total annual debt service payments greater than 2% of the district's unrestricted general fund revenues

## **14. Lack of Position Control**

- Financial and human resources systems not integrated
- Accounting for positions and costs is incomplete
- Staffing not analyzed or adjusted based on staffing ratios and enrollment

- Budget, payroll and position control not reconciled regularly
- Budget source not identified for each new position before the position is authorized by the governing board
- New positions and extra assignments posted before governing board approval
- Staffing ratios for certificated, classified and administrative positions not adopted or followed
- Lack of regular meetings between human resources, payroll and budget to discuss issues and improve processes.

## **15. Related Issues of Concern**

- Failure to produce timely and accurate financial information
- Annual Independent Audit Report contains material apportionment or internal control findings
- Inadequate, undocumented monitoring and oversight of authorized charter schools
- Out-of-date long-range facilities master plan
- Special education costs not monitored, with contribution rate above the statewide average contribution rate
- Special education staffing ratios, class sizes and caseload sizes do not align with statutory requirements and industry standards
- District and the county office of education have different financial systems and lack automated interface



Revised 8-14-2019

## **Appendix B: ESSER funds**

The Elementary and Secondary School Emergency Relief Fund (ESSER) was established as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. CARES provided direct funding to states and districts to address the impact COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

The ESSER Fund is the leading source of funding for public elementary and secondary education under each law. As each succeeding law was enacted, the U.S. Department of Education (ED) modified the acronym ESSER to distinguish each fund from the other. Collectively known as ESSER funds.

The Office of Elementary and Secondary Education (<https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>) clarifies each ESSER phase as:

### **ESSER I**

On March 27, 2020, Congress set aside approximately \$13.2 billion of the \$30.75 billion allotted to the Education Stabilization Fund through the Coronavirus Aid Relief, and Economic Security (CARES) Act for the Elementary and Secondary School Emergency Relief Fund (ESSER) Fund. The Department awarded these grants to State educational agencies (SEAs) for the purpose of providing local educational agencies (LEAs), including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation. ESSER Fund awards to SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2019.

### **ESSER II**

The Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, was signed into law on December 27, 2020, and provided an additional \$54.3 billion for the Elementary and Secondary School Emergency Relief (ESSER II) Fund. ESSER II Fund awards to SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2020.

### **American Rescue Plan (ARP) ESSER (III)**

On Thursday, March 11, 2021, the American Rescue Plan (ARP) Act was signed into law. It was an unprecedented \$1.9 trillion package of assistance measures, including \$122 billion for the ARP Elementary and Secondary School Emergency Relief (ARP ESSER) Fund. Funds are provided to SEAs and LEAs to help safely reopen and sustain the same operation of schools and address the impact of the coronavirus pandemic on the Nation's students. ARP ESSER Fund awards to

SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2020.

<https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>

	CARES/ ESSER I	CRRSA / ESSER II	ARP / ESSER III
Funding for K-12	\$13.2 billion	\$54.3 billion	\$123 billion
Obligation Deadline	September 2022	September 2023	September 2024
Uses	<ul style="list-style-type: none"> <li>• Summer learning</li> <li>• Providing mental health services</li> <li>• Educational technology including hardware and software</li> <li>• Activities to address the unique needs of various subgroups, including students with disabilities, BIPOC students, English learners, as well as students experiencing homeless, low income, or in foster care</li> <li>• Preparedness and continuity of services</li> </ul>	Same as CARES plus: <ul style="list-style-type: none"> <li>• Activities to address “learning loss”</li> <li>• Preparing schools for reopening</li> <li>• Projects to improve air quality in school buildings</li> </ul>	

ESSER funds can be used in a variety of ways as long as the use addresses the impact of COVID-19. While all three funds can be used for things like hiring new staff, avoiding layoffs and implementing strategies that address the **public health crisis**. There are some additional nuances that were added to the terms for ESSER II and ESSER III. These include:

- accelerating learning recovery,
- facilitating remote learning,
- prepping for reopening,
- testing for reopening,
- improving air quality in schools,
- maintaining health and safety and
- building new protocols to meet CDC guidance.

## Appendix C: Consultant Forms



### BOARD POLICY

E 3600

Adopted: 06/12/07

Page 1 of 2

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### Business and Noninstructional Operations

#### Consultants

#### CONSULTANT UTILIZATION FORM

The following form is to be utilized by all non-instructional Consultants. The form is divided into two sections. Section #1 is to be utilized by the Consultant, and Section #2 by the District designees.

##### Section #1

To provide consultant services to the Stockton Unified School District, all potential noninstructional Consultants must first provide the District's \_\_\_\_\_ Office with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant.

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2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?

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3. Describe the purpose and goal of the services to be provided.

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4. Provide documentation and references of similar work.

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5. Describe how the quality of services to be provided are to be measured.

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Signature of Potential Consultant

Date

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STOCKTON UNIFIED SCHOOL DISTRICT      701 North Madison Street, Stockton, California 95202-1687



**BOARD POLICY**

E 3600

Adopted: 06/12/07

Page 2 of 2

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**Business and Noninstructional Operations**

**Consultants**

Section #2

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.

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2. Identify the term of the contract and what, if any, internal or less expensive options are available.

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3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.

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4. Identify the impact of the Consultant on the District.

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5. Identify the stakeholders, if any, who provided input with regard to the Consultant and identify who from the District reviewed and recommended the Consultant.

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Signature of District Reviewer

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Date

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STOCKTON UNIFIED SCHOOL DISTRICT 701 North Madison Street, Stockton, California 95202-1687



Requisition No. \_\_\_\_\_

Date of Board Approval \_\_\_\_\_

Consent Item No. \_\_\_\_\_

Please attach a copy of approved Board Agenda Item.

**STOCKTON UNIFIED SCHOOL DISTRICT**

Division of Business Administration  
701 N. Madison Street, Stockton, California 95202

**AGREEMENT TO FURNISH CONSULTANT SERVICES**

PURSUANT TO GOVERNMENT CODE SECTION 53060, Stockton Unified School District, hereinafter called the District, has need of the specialized services of \_\_\_\_\_ an independent contractor, hereinafter called CONSULTANT, for the period specified herein, according the following terms and conditions.

\_\_\_\_\_ shall be, for the purpose of this agreement, an independent contractor, and shall not be deemed an employee of the DISTRICT for any purpose.

I. TERM

1. The effective dates of the agreement are from \_\_\_\_\_ to \_\_\_\_\_.
2. The first day of service shall be \_\_\_\_\_.

II. SERVICE TO BE PERFORMED

CONSULTANT shall

III. MANNER OF PERFORMANCE

CONSULTANT shall perform all services(s) required in a competent and professional manner under the direction of

\_\_\_\_\_ who shall review and evaluate CONSULTANT'S performance and determine the final acceptance of the end product to be produced under the term of this agreement.

IV. PLACE OF PERFORMANCE

CONSULTANT shall render service(s) described in Article II at:

V. SUPPLIES AND EQUIPMENT

DISTRICT may provide such supplies and equipment as shown herein for the convenience of CONSULTANT and such accommodation shall not operate as an indicia of employment. CONSULTANT shall have access to and use of the following supplies and equipment owned by the DISTRICT for the purpose of performance of the services described in Article II:

1. CONSULTANT agrees to use ordinary care to safeguard and maintain equipment or supplies listed above and shall not permit the use thereof by any other person, or in any manner which is inconsistent with the designed uses therefore, and shall be held accountable for loss, damage or destruction arising within this clause.

VI. COMPENSATION

1. CONSULTANT shall be compensated (rate-term, i.e., hourly, etc.)
2. A day of compensable service is the equivalent of \_\_\_\_\_ hour(s) a day
3. Service requiring less than a full day of service shall be compensated at the fractional equivalent of per diem rate for the hours or work performed.
4. Consultant shall submit with invoices for payment, accurate records of all costs, disbursements and receipts, with respect to work performed under this agreement.
5. Payment shall be upon presentation of invoice properly completed and submitted by the CONSULTANT.

6. CONSULTANT shall be allowed and authorized to incur and shall be reimbursed for the following personal expenses attendant to the performance of services as described in Article II: \_\_\_\_\_
7. Total compensation shall not exceed \$ \_\_\_\_\_.

VII. WARRANTY

Consultant warrants that it had the expertise or has experts available to help in the preparation of services as set forth in Article II in a manner consistent with generally accepted standards of CONSULTANT'S profession. CONSULTANT further warrants that he/she will perform said services in a legal-adequate manner in conformance with all applicable federal, state and local laws and guidelines.

VIII. CHANGES

The DISTRICT or CONSULTANT may, from time to time, request changes in the scope of the service(s) of CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of CONSULTANT'S compensation and/or changes in the schedule must be authorized in advance by the DISTRICT IN WRITING. Mutually agreed changes shall be incorporated in written amendments to the agreement

IX. LIABILITY OF CONSULTANT-NEGLIGENCE

CONSULTANT shall be responsible for performing the work in a safe and skillful manner consistent with generally accepted standards of CONSULTANT'S profession, and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors, and subcontractors. Except as set forth in this agreement, the DISTRICT shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to CONSULTANT or its employees, agents, contractors or subcontractors.

X. INDEMNITY AND LITIGATION COSTS

CONSULTANT shall indemnify, defend, and hold harmless the DISTRICT, its officers, officials, agents and employees from and against any and all claims, damages, demands, liability, costs, losses, and expenses, including without limitation court costs and reasonable attorneys' fees arising out of or in connection with CONSULTANT'S performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss of damage which was caused by the sole negligence or willful misconduct of the DISTRICT.

CONSULTANT shall not commence any work before obtaining and shall maintain in force at all times during the term and performance of this agreement, to the extent required by law, the policies of insurance specified below:

1. Workers' Compensation Insurance (see Exhibit 1).
2. Comprehensive General Liability Insurance in the amount of \$ \_\_\_\_\_.

XI. ASSIGNMENT

This agreement is for personal service(s) to be performed by CONSULTANT and may not be assigned to, sublet to or performed by any person or persons who are not parties hereto except by employees of CONSULTANT whose names and qualifications have been approved by the DISTRICT.

XII. TERMINATION OF AGREEMENT

- 1. This Agreement shall terminate on the last day of service(s) as written in Article I except:
  - (a) DISTRICT may terminate at any time if CONSULTANT does not perform or refuses to perform according to this agreement.
  - (b) DISTRICT may terminate service(s) of CONSULTANT at any time if, in the professional judgment of the management supervisor named herein, CONSULTANT’S performance is unsatisfactory as to the manner of performance or the product of said performance fails to meet the DISTRICT’S requirements as specified in Article II.
  - (c) In the event of early termination CONSULTANT shall be paid for all work or service(s) performed to the date of termination together with an amount for approved expenses due and owing.
- 2. Upon termination, the DISTRICT shall be entitled to all work created pursuant to this agreement.

XIII. DISTRICT’S RIGHT OF RETENTION

- 1. DISTRICT shall become the owner of and entitled to exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed under this agreement. CONSULTANT shall not have any property right to such materials whatsoever, and no other uses thereof will be permitted except by written permission of the DISTRICT.
- 2. All the materials prepared or assembled by CONSULTANT pursuant to performance of this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of the DISTRICT.

XIV. EXTENSION OF TERM

By mutual consent of the parties hereto the term of service(s) described herein in Article I may be extended by reformation of this agreement and the attachment hereto of an addendum mutually executed setting forth the extended term.

XV. ENTIRE AGREEMENT

This Agreement and its exhibits constitute the entire agreement between the parties relative to the services specified herein and no modification shall be effective unless and until such modification is evidenced by a writing signed by both parties to this agreement. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this agreement, except those contained in or referred to in the writing.

**WITNESSETH**

That the parties hereto have agreed, promised and covenanted to perform the obligations herein set forth we have subscribed our names hereto this day of \_\_\_\_\_ at Stockton, County of San Joaquin, State of California.

\_\_\_\_\_  
CONSULTANT (1)  
Date \_\_\_\_\_

\_\_\_\_\_  
CONTRACT OFFICE OF THE STOCKTON UNIFIED  
SCHOOL DISTRICT – SAN JOAQUIN COUNTY

\_\_\_\_\_  
Social Security Number (2)

Date \_\_\_\_\_

- (1) Whenever organizational names are used, the authorized signature must include the company title i.e. President.
- (2) Whenever organizational names are used, the Employer's IRS Identification Number must be used instead of a Social Security Number.

**EXHIBIT 1**

- **CERTIFICATE OF COMPLIANCE WITH LABOR CODE SECTION 3700**

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONSULTANT:

BY: \_\_\_\_\_  
NAME

TITLE: \_\_\_\_\_

## Appendix D: School Board Minutes

Stockton Unified School District Board Minutes Status			
Board Meeting Date	Meeting Type	Minutes Approved	Status of Posting
January 7, 2020	Special Board Meeting	January 28, 2020	Yes
January 14, 2020	Regular	January 28, 2020	Yes
January 28, 2020	Regular	April 14, 2020	Yes
February 11, 2020	Regular	No	No
February 24, 2020	Special Board Meeting	March 10, 2020	No
February 25, 2020	Regular	April 14, 2020	No
March 10, 2020	Regular	April 28, 2020	Yes
March 26, 2020	Special Board Meeting	April 14, 2020	Yes
April 1, 2020	Special Board Meeting	April 14, 2020	Yes
April 14, 2020	Regular	April 28, 2020	Yes
April 21, 2020	Special Board Meeting	April 28, 2020	Yes
April 28, 2020	Regular	No	No
May 12, 2020	Special Board Meeting	June 23, 2020	No
May 12, 2020	Regular	June 23, 2020	Yes
May 15, 2020	Regular	June 9, 2020	Yes
May 15, 2020	Special Board Meeting	June 9, 2020	Yes
May 26, 2020	Regular	June 9, 2020	Yes
June 9, 2020	Regular	No	Yes
June 18, 2020	Special Board Meeting	No	No
June 23, 2020	Regular	No	No
July 2, 2020	Special Board Study Session	July 28, 2020	Yes
July 21, 2020	Special Board Meeting	August 25, 2020	Yes
July 28, 2020	Regular	August 25, 2020	Yes
August 11, 2020	Special Board Meeting	August 25, 2020	Yes

<b>Board Meeting Date</b>	<b>Meeting Type</b>	<b>Minutes Approved</b>	<b>Status of Posting</b>
August 25, 2020	Regular	<b>No</b>	Yes
September 15, 2020	Regular	October 13, 2020	Yes
September 22, 2020	Special Board Meeting	<b>No</b>	<b>No</b>
September 22, 2020	Regular	<b>No</b>	<b>No</b>
October 13, 2020	Regular	October 27, 2020	Yes
October 27, 2020	Regular	December 15, 2020	Yes
November 10, 2020	Regular	December 15, 2020	Yes
December 15, 2020	Regular	<b>No</b>	Yes
January 7, 2021	Special Board Meeting	February 9, 2021	Yes
January 12, 2021	Regular	March 23, 2021	Yes
January 26, 2021	Regular	February 9, 2021	Yes
February 1, 2021	Special Board Meeting	February 23, 2021	Yes
February 9, 2021	Regular	<b>No</b>	<b>No</b>
February 23, 2021	Regular	March 13, 2021	Yes
March 9, 2021	Regular	March 23, 2021	Yes
March 23, 2021	Regular	April 27, 2021	Yes
March 30, 2021	Special Board Meeting	April 27, 2021	Yes
April 13, 2021	Regular	May 11, 2021	Yes
April 27, 2021	Special Board Meeting	May 11, 2021	Yes
April 27, 2021	Regular	May 25, 21	Yes
May 11, 2021	Regular	May 25, 2021	Yes
May 25, 2021	Regular	June 22, 2021	Yes
June 8, 2021	Regular	June 22, 2021	Yes
June 15, 2021	Special Board Meeting	July 27, 2021	Yes
June 22, 2021	Regular	<b>No</b>	<b>No</b>
June 30, 2021	Special Board Meeting	August 10, 2021	Yes
July 13, 2021	Regular	August 10, 2021	Yes

<b>Board Meeting Date</b>	<b>Meeting Type</b>	<b>Minutes Approved</b>	<b>Status of Posting</b>
July 14, 2021	Special Board Meeting	No	No
July 27, 2021	Regular	August 10, 2021	No
July 30/2021	Special Board Meeting	No	No
August 10, 2021	Regular	No	No
August 24, 2021	Regular	October 26, 2021	Yes
September 14, 2021	Regular	December 12, 2021	Yes
September 28, 2021	Regular	No	No
October 9, 2021	Special Board Meeting	October 26, 2021	Yes
October 12, 2021	Special Board Study Session	December 14, 2021	Yes
October 12, 2021	Regular	December 14, 2021	Yes
October 26, 2021	Special Board Study Session	December 14, 2021	Yes
October 26, 2021	Regular	December 14, 2021	Yes
November 9, 2021	Special Board Meeting	No	No
November 9, 2021	Regular	No	No
December 14, 2021	Special Board Meeting	March 8, 2022	Yes
December 14, 2021	Regular	March 22, 2022	Yes
January 11, 2022	Regular	January 25, 2022	Yes
January 25, 2022	Regular	February 8, 2022	Yes
February 8, 2022	Special Board Meeting	April 26, 2022	Yes
February 8, 2022	Regular	April 26, 2022	Yes
February 22, 2022	Special Board Meeting	March 8, 2022	Yes
February 22, 2022	Regular	April 12, 2022	Yes
March 8, 2022	Special Board Meeting	April 12, 2022	Yes
March 8, 2022	Regular	April 12, 2022	Yes
March 22, 022	Regular	April 12, 2022	Yes
April 12, 2022	Regular	April 26, 2022	Yes

## 2021–2022 San Joaquin County Grand Jury



### **San Joaquin County and Its Seven Cities: Cybersecurity: Local Defense Against a Global Threat Case #0321**

#### **Summary**

We hear reports on a daily basis of cyberattacks occurring around the world. These attacks are becoming increasingly sophisticated, disruptive and expensive. Attacks on government agencies can disrupt essential services, crippling communities. Agencies small and large are equally vulnerable. There is an ever-growing demand for stolen data in an underground market. Compromise of information has proven to be a serious threat on the cyber battleground, both domestically and internationally. Bad actors hack intelligence, media and essential service systems. Other disasters such as floods, fires, storms or prolonged power outages can interrupt essential services if providers' information systems are not adequately secure. According to one expert witness interviewed by the 2021-2022 Grand Jury, "World War III will be fought in cyberspace, not on the battlefield."

Grand Jury members are not technical experts but sought to understand the cybersecurity landscape and local governments' management of their cybersecurity risks and vulnerabilities. In this investigation of information security of San Joaquin County and its seven cities, the 2021-2022 Grand Jury made a "point in time" assessment of each entity's Information Systems Department (ISD), focusing primarily on cybersecurity. The Grand Jury considered nine elements of any ISD and, through research of relevant literature and input from industry experts, established an expected standard for each of those elements. The Grand Jury then evaluated each of the agencies with respect to those expectations.

The Grand Jury concluded that San Joaquin County (SJC) has mature and robust security policies and systems. The County's security architecture provided a model in evaluating each city's systems. The Grand Jury determined that Escalon, Lodi and Stockton met a lay person's expectations for cybersecurity but were lacking either a formal Business Continuity Plan (BCP)

or Disaster Preparedness Plan (DPP). Lathrop, Manteca and Tracy were found to have adequate security systems in place but lack documented plans for both Business Continuity and Disaster Preparedness. Ripon was found to need improvement in meeting several of the Grand Jury's expectations, with lack of personnel being their greatest challenge.

The Grand Jury recommends that the County and affected cities:

- develop, adopt and implement a Business Continuity Plan;
- develop, adopt and implement an IT Disaster Preparedness Plan;
- remedy specific cybersecurity risks found in this investigation; and
- the City of Ripon undergo a data system security review by an expert third party to assess the City's IT systems and protocols.

The Grand Jury recognizes that cybersecurity is a dynamic process, a continually moving target which needs constant monitoring and updating.

## Glossary

- **Access:** The ability and means to communicate with or otherwise interact with a system; to use system resources to manage information; to gain knowledge of the information the system contains; to control system components and functions.
- **Actor, bad actor, threat actor or attacker:** An individual, group, organization or government that attempts or executes an attack.
- **Attack:** An intentional attempt to gain unauthorized access to system services, resources or information; an attempt to compromise system integrity.
- **Authentication:** The process of verifying the identity or other attributes of an entity (user, process or device).
- **Authorization:** A process of determining, by evaluating applicable access control information, whether a subject is allowed to have the specified types of access to a particular resource.
- **BCP:** Business Continuity Plan. A document that sets forth procedures for the continued performance of core capabilities, critical operations and user services during any disruption or potential disruption.
- **CCISDA:** California County Information Services Directors Association. This is the official organization of the county IT directors and chief information officers throughout the state of California. CCISDA represents all 58 California counties in the area of information technology in county government.
- **CIO:** Chief Information Officer.
- **Computer Aided Dispatch Systems:** Used by dispatchers, call-takers, and 911 operators to prioritize and record incident calls, identify the status and locations of responders in the field and effectively dispatch responders.
- **Confidentiality:** A property of information that is not disclosed to users, processes or devices unless they have been authorized to access the information.

- **Cyber event or incident:** An occurrence that actually or potentially results in adverse consequences to an information system or the information that the system processes, stores or transmits and that may require a response action to mitigate the consequences. An occurrence that constitutes a violation or imminent threat of violation of security policies, security procedures or acceptable use policies.
- **Cybersecurity:** The activity, process, ability, capability or state whereby information and communications systems and the information contained therein are protected from and/or defended against damage, unauthorized use, modification or exploitation.
- **DPP:** Disaster Preparedness Plan. A document that sets forth policies and procedures for restoration of information systems after a critical incident or event from any source. The plan addresses interim restoration of information operations in the short and medium term and full restoration of all capabilities in the longer term.
- **Data integrity:** The property that data is complete, intact and trusted and has not been modified or destroyed in an unauthorized or accidental manner.
- **Data security policy:** A rule or set of rules that governs the acceptable use of an organization's information and services to a level of acceptable risk and the means for protecting the organization's information assets.
- **Encryption:** The process of converting data into a form that cannot be easily understood by unauthorized people or agents.
- **Firewall:** A capability to limit network traffic between networks and/or information systems. A hardware/software device, or a software program, that limits network traffic according to a set of rules of what access is and is not allowed or authorized.
- **Hacker:** An unauthorized user who attempts to or gains access to an information system.
- **ISD:** Information Systems Department.
- **IT:** Information Technology.
- **KnowB4:** A proprietary security awareness training platform. KnowB4 is used by agencies for simulated phishing activities and other email compromise tests, as well as for other IT security training needs.
- **Malware:** Software that compromises the operation of a system by performing an unauthorized function or process.
- **Mobile device management tool:** A security software tool designed to help organizations secure, manage and monitor mobile devices such as smartphones and tablets.
- **Multi-factor authentication:** An electronic authentication mechanism in which a user is granted access to an application only after presenting two or more pieces of evidence (factors or keys only the authentic user knows or possesses).
- **Multi-layer security access:** Multi-layer security refers to a system that uses numerous components to shield the IT infrastructure. It is a defense mechanism that mitigates, delays or prevents threats.

- **Network or cyber infrastructure:** The information and communication systems and services composed of all hardware and software that process, store and communicate information; any combination of all these elements.
- **Next-generation systems:** Security systems consisting of both firewall and intrusion prevention systems built in, rather than as add-ons, along with the features of basic firewalls.
- **Phishing:** A digital form of social engineering to deceive individuals into providing sensitive information.
- **Phishing test:** A security training exercise designed to test users' vulnerability and reinforce vigilance.
- **Presidential Executive Order 14028:** "Improving the Nation's Cybersecurity" (issued May 12, 2021) requires agencies to enhance their cybersecurity system integrity.
- **Ransomware:** A type of malicious software designed to block access to a computer system until a sum of money is paid.
- **Ransomware attack response plan:** A set of predetermined and documented procedures to detect and respond to a cyber incident involving demand for ransom for recovery and restoration of data or systems.
- **Records Management System:** The management of records for an organization throughout the records' life cycle.
- **Redundancy:** Additional or alternative systems, sub-systems, assets or processes that maintain a degree of overall functionality in case of loss or failure of another system, sub-system, asset or process. Typically applied to power supplies and data backup systems.
- **Vulnerability:** A characteristic or specific weakness that renders an organization or asset (such as information or an information system) open to exploitation by a given threat or susceptible to a given hazard.
- **Wi-Fi network:** A family of wireless network protocols used for local area networking of devices and internet access, allowing nearby digital devices to exchange data by radio waves.

## **Background**

The 2008-2009 San Joaquin County Grand Jury reported on information technology security, finding that several County departments and two of the seven cities in the county met expectations for Information Technology (IT) security, while some County departments and five cities did not. Recommendations were made and generally accepted in agency responses. In terms of technology, 2008-2009 was at least a generation ago. Government agencies use and store vast amounts of sensitive data on their residents and their employees, including personal identification data, financial data, health data and legal data. Additionally, these agencies provide services essential to our day-to-day lives, including public safety (police and fire), public works, health services, water services and community development. The Grand Jury recognizes that we are lay people, hardly experts, in the field of IT. It was the intent of the 2021-2022 Grand Jury to examine how the county and city governments within San Joaquin County are

exercising due diligence to protect information, defend against future cyberattacks, maintain current disaster plans and provide on-going training to employees in these matters.

### **Reason for Investigation**

As stated in Presidential Executive Order 14028, “...the prevention, detection, assessment and remediation of cyber incidents is a top priority and essential to national economic security.”

San Joaquin County has experienced ransomware and cybersecurity attacks firsthand. School districts, municipalities and county agencies have been victimized in recent years. Given the rise in complexity of IT, the current sophistication of cybercrime, and the essential nature of government services provided, the 2021-2022 Grand Jury undertook an investigation into the current state of security and disaster preparedness of the IT systems of San Joaquin County and the seven incorporated cities within the county.

### **Method of Investigation**

The 2021-2022 Grand Jury surveyed six San Joaquin County IT department heads and the City Manager or City Administrator of each of the seven cities in the county; each responded to the survey. Subsequently, an agency IT department head or staff member, an IT consultant or a city administrator was interviewed to clarify responses and to provide additional material when applicable. The Grand Jury also interviewed independent cybersecurity experts. The expert witnesses have collectively more than 50 years’ experience at diverse levels of government ranging from county to state to national information systems and cybersecurity. IT executives from one school district were also interviewed. For this investigation, the Grand Jury interviewed 16 individuals and attended cybersecurity presentations.

The Grand Jury also reviewed numerous websites and newspaper and magazine articles relevant to this investigation. Additionally, the Grand Jury reviewed documents provided, including network diagrams, ransomware insurance policies and other items.

### **Materials Reviewed**

- 2021-2022 San Joaquin County Grand Jury surveys
- Biden, Joseph. *Executive Order on Improving the Nation’s Cybersecurity*. 12 May 2021. Executive Order#14028
- *California Joint Cyber Incident Response Guide*. California Office of Emergency Services Cyber Security Integration Center, 2 Aug. 2021
- *Cyber Attack Preparedness in Contra Costa County*. Contra Costa County Civil Grand Jury, 2021. Report 2104
- *Digital Services and Innovation Strategy*. San Joaquin County, 19 Nov. 2020
- *How to Develop a Ransomware Remediation Plan*. Rubrik, 2021
- *Information Technology Security*. 2018-2019 Santa Barbara County Grand Jury, 2019

- *Information Technology Security: Cities and San Joaquin County*. 2008/2009 San Joaquin County Grand Jury, 2009. Report No.03-08
- *Ransomware Defense for Dummies--2nd Edition*. 2nd ed., Cisco Umbrella, 2021

### **Websites Visited**

- Cybersecurity & Infrastructure Security Agency. "CYBERSECURITY | CISA." *Cisa.gov*, Cybersecurity and Infrastructure Security Agency, 2019, [www.cisa.gov/cybersecurity](http://www.cisa.gov/cybersecurity). Accessed 6 May 2022.
- Federal Trade Commission, and Alvaro Puig. "Cybersecurity Advice to Protect Your Connected Devices and Accounts." *Sjgov.org*, 24 Mar. 2022, [www.sjgov.org/department/da/consumer-alerts/consumer-alerts/2022/03/24/cybersecurity-advice-to-protect-your-connected-devices-and-accounts](http://www.sjgov.org/department/da/consumer-alerts/consumer-alerts/2022/03/24/cybersecurity-advice-to-protect-your-connected-devices-and-accounts). Accessed 6 May 2022.
- Kuykendall, By Kristal. "Cybersecurity Experts Call for More Transparency and Immediate Resources for Schools." *The Journal*, 17 Mar. 2022, [thejournal.com/Articles/2022/03/17/Cybersecurity-Experts-Call-For-More-Transparency-and-Immediate-Resources-for-Schools.aspx?Page=1](http://thejournal.com/Articles/2022/03/17/Cybersecurity-Experts-Call-For-More-Transparency-and-Immediate-Resources-for-Schools.aspx?Page=1). Accessed 6 May 2022.
- Marcum Accounts Advisors. "What Is a SOC 2?" *The SSAE 18 Reporting Standard - SOC 1 - SOC 2 - SOC 3 (Formerly SSAE 16)*, 8 Jan. 2022, [www.ssae-16.com/faq/what-is-a-soc-2/](http://www.ssae-16.com/faq/what-is-a-soc-2/). Accessed 30 Apr. 2022.
- National Institute for Cybersecurity Careers and Studies. "Cybersecurity Glossary | National Initiative for Cybersecurity Careers and Studies." *Niccs.cisa.gov*, [niccs.cisa.gov/about-niccs/cybersecurity-glossary](http://niccs.cisa.gov/about-niccs/cybersecurity-glossary). Accessed 6 May 2022.
- Unisys. "Cyber Attacks--What You Need to Know." *Unisys*, 2022, [www.unisys.com](http://www.unisys.com). Accessed 6 May 2022.

## **Discussions, Findings and Recommendations**

### **General Discussion**

The Grand Jury recognizes cybersecurity is an extremely complicated topic. Specialized knowledge, experience and expertise are required for a deep understanding of what is necessary for adequate policies, systems and architecture. Lacking such specialized knowledge, the Grand Jury researched numerous sources, including recognized experts in this field to determine the following elements of any ISD and to define the following expectations for adequate cybersecurity in today's environment.

## Expectations

- **Organization:** Each organization should have a detailed Organization Chart demonstrating the structure of its independent IT department. Cities lacking an independent IT department should have a chart showing where IT resides in their overall structure.
  - **Network Diagram:** Each organization should have a detailed network diagram indicating the relationships between all IT architectural elements. Best-practice guidelines suggest that this diagram be confidential.
  - **Data Confidentiality:** Each organization should have an organization-wide policy determining data confidentiality and access control. Policy for data access should be clearly defined and desk-specific or station-specific.
  - **Data Security:** Each organization should have next-generation systems and controls to ensure both physical and cyber security for all IT assets. Next-generation firewalls and endpoint management systems provide protection against ever-evolving means of cyberattack. Data should be protected with daily or continuous backup and archival systems. Backups should be protected against corruption, external encryption and/or destruction. Agencies should require multi-factor authentication for access to network systems.
  - **Business Continuity Plan (BCP):** Each organization should have a detailed, current, comprehensive plan for restoring services in the event of disruption from any source.
  - **Disaster Preparedness Plan (DPP):** Each organization should have a formal, detailed plan to prepare for various possible IT disruptions. This plan should be tested frequently and updated regularly.
  - **Ransomware Policy:** Each organization should have an internal (confidential) documented policy for agency response to a ransomware attack.
  - **Cyber Event Insurance:** Each organization should have insurance coverage to help offset economic losses from cyber events.
- Ongoing Employee Training:** Each organization should provide rigorous, frequent training and ongoing testing of all employees as an integral part of its cybersecurity profile.

## Survey Results:

The table below indicates whether an agency met (**M**), did not meet (**NM**) or was in the process of meeting (**IP**) the nine defined expectations.

	Org Chart	Network Diagram	Data Confidentiality	Data Security	BCP	DPP	Ransomware Policy	Cyber Insurance	Training
SJC	M	M	M	M	M	M	NM	M	M
Escalon	M	M	M	M	NM	M	M	M	M
Lathrop	M	M	M	M	NM	M	NM	NM	M
Lodi	M	M	M	M	IP	M	M	M	M
Manteca	M	M	M	M	M	M	IP	IP	M
Ripon	M	M	M	M	NM	NM	NM	M	M
Stockton	M	M	M	M	M	M	NM	M	M
Tracy	M	M	M	M	IP	IP	NM	M	M

### 1.0 San Joaquin County–Discussion

In November 2020, San Joaquin County released a three-year (2020-2023) strategic plan for ensuring continuing security, efficacy, cost-effectiveness and best-service outcomes to all end-users of County services and systems. The plan document “San Joaquin County Digital Services and Innovation Strategy” established goals for County digital service systems. These goals—Modernizing and Leveraging Our Technology Environment—address objectives for a security posture:

1. Acquire and implement cybersecurity technology to enable SJC to develop industry-leading capabilities to help mitigate and address cybersecurity risk.
2. Develop and mature security governance and processes to meet or exceed industry standards, enhance security enforcement partnerships, and strengthen County practices.
3. Develop a robust security training program for the County workforce, including enhanced training and development for the security workforce.

Excerpt from “San Joaquin County Digital Services and Innovation Strategy,” November 19, 2020 (page 6)

San Joaquin County has met these objectives and continues to update and enhance these processes as the cybersecurity landscape continues to evolve.

San Joaquin County ISD oversees all County departments, making it one of the largest county ISDs in California. San Joaquin County ISD is an active participant in the California County Information Systems Department Association (CCISDA). This association provides opportunities

for counties to share information and experiences and offers guidance, such as standards for best-practice policies.

Several large and specialized departments within the County have their own IT departments and department chiefs who report to the County's Chief Information Officer. Additionally, SJC has a dedicated Information Security Officer. All these IT executives form a cybersecurity governance committee which meets monthly, with subgroups meeting more frequently as needed.

County ISD and Human Resource Departments conduct frequent and on-going employee training and testing using proprietary software. In addition to these County departments, several Independent Special Districts in SJC use County IT services through various memoranda of understanding.

The only element of the defined expectations not met by SJC is having an internal documented policy for response to a ransomware attack.

San Joaquin County is a model agency in the realm of information technology and maintenance of cybersecurity.

## **Findings**

**F1.1** San Joaquin County does not have a formal internal policy concerning payments or procedures in ransomware attacks. This absence of policy could cause confusion, delay and greater loss of security in the event of such an attack.

**F1.2** San Joaquin County has an exemplary profile regarding cybersecurity and should serve as a model for other government agencies within San Joaquin County.

## **Recommendations**

**R1.1** By November 1, 2022, the San Joaquin County Board of Supervisors, in conjunction with San Joaquin County ISD, develop, adopt and implement a formal internal policy and procedure for response to a ransomware attack.

## **2.0 City of Escalon–Discussion**

The City of Escalon does not have an independent IT department but has a contract agreement with Mid Valley IT to provide all IT services. In the City organization, IT functions report to the Finance and HR Directors. Each employee is given a level of access according to assigned responsibilities within their department. All employees receive information security training specific to their responsibilities as well as general security awareness training. The IT consultant employs an aggressive multi-layered approach to mitigate security threats through software and hardware protection measures. Critical or confidential data is stored in multiple cloud-

based locations and systems employing numerous safeguards, including use of multi-factor authentication for access.

IT functions are protected with a standby generator and redundant backups in case of a system failure. The generator is tested periodically for functionality.

The City of Escalon met all but one of the expectations for adequate cybersecurity. Escalon is by far the smallest city in San Joaquin County, but by using a contracted IT service provider, Escalon is meeting its cybersecurity needs. The City of Escalon does not have a documented Business Continuity Plan.

## **Findings**

**F2.1** The City of Escalon does not have a documented Business Continuity Plan, leaving the City relatively unprepared to restore essential services in a disruptive event.

## **Recommendations**

**R2.1** By January 1, 2023, the Escalon City Council, in conjunction with Mid Valley IT, develop, adopt and implement a Business Continuity Plan.

## **3.0 City of Lathrop–Discussion**

The City of Lathrop met six of the expectations for the nine elements considered in this investigation. Lathrop’s IT organization includes a Director of Information Technology at the cabinet leadership level, a policy strongly recommended by an IT expert for maximum IT security. Including the Director of IT in frequent, regular meetings with other department heads allows effective communication of IT security needs to all City departments.

Expectations for data confidentiality and data security were met. However, use of multi-factor authentication for system access was not universal at the time of this investigation, leaving Lathrop at higher risk of attack. Lathrop provides an unsecured public Wi-Fi network, separate from the City’s secure business network and accessible to any user. Hackers or other bad actors could take advantage of the unsecured network, possibly resulting in compromise of log-in credentials from that network and possibly exposing the City to costly liability suits. Lathrop was in the process of developing and approving a BCP and DPP plan at the time of this investigation. Similarly, the City was updating an internal policy for response to a ransomware attack. At the time of this investigation, Lathrop lacked insurance against losses incurred in a cybersecurity incident.

## **Findings**

**F3.1** The City of Lathrop does not employ multi-factor authentication universally, leaving City systems more vulnerable to the activities of bad actors.

**F3.2** The City of Lathrop provides an unsecured public Wi-Fi network. Misuse of this unsecured network could expose the City to liability risks.

**F3.3** The City of Lathrop does not have an approved Business Continuity Plan, rendering the City relatively unprepared to restore essential services in a disruptive event.

**F3.4** The City of Lathrop does not have a formal internal policy or procedure to address ransomware attacks. This absence of policy could cause confusion, delay and greater loss of security in the event of such an attack.

**F3.5** The City of Lathrop does not have an insurance policy covering financial losses from a cyberattack, possibly exposing City financial resources.

## **Recommendations**

**R3.1** By November 1, 2022, the Lathrop City Council, in conjunction with the City's IT department, develop, adopt and implement a procedure for universal multi-factor authentication for access to City data.

**R3.2** By November 1, 2022, the Lathrop City Council, in conjunction with the City's IT department, provide a secure public Wi-Fi network.

**R3.3** By January 1, 2023, the Lathrop City Council, in conjunction with the City's IT department, develop, adopt and implement a Business Continuity Plan.

**R3.4** By November 1, 2022, the Lathrop City Council, in conjunction with the City's IT department, develop, adopt and implement a formal internal policy and procedure for a ransomware attack.

**R3.5** By January 1, 2023, the Lathrop City Council, in conjunction with the City's IT department, obtain an insurance policy to mitigate fiscal impact resulting from cyberattack or other critical information system loss.

## **4.0 City of Lodi–Discussion**

The City of Lodi has a large IT division, responsible for all IT functions of the City. The division is responsible for the integrity of the City's cyber infrastructure, maintenance and support of all hardware and software, and assuring secure access to all network resources. Lodi fell victim to a ransom attack in April 2019. That unfortunate event caused the City to change its management of cybersecurity, significantly elevating the importance of vigilance by all City staff. Lodi has implemented a robust cyber awareness training program for all City employees, incorporating education in tactics used by bad actors both inside and outside the City's network. Monthly training is followed by testing in topics covered. Citywide campaigns occur quarterly to test employee response to phishing and other email-based attacks. The IT division head reports directly to the Deputy City Manager and meets regularly with all City department heads. The City of Lodi met all expectations for cybersecurity except for having a completed,

up-to-date Business Continuity Plan. The City has contracted a business consulting firm to create a BCP, projected to be completed and implemented by the end of June 2022.

## **Findings**

**F4.1** The City of Lodi does not have an approved Business Continuity Plan, rendering the City relatively unprepared to restore essential services in a disruptive event.

**F4.2** The City of Lodi has implemented an excellent cyber awareness training program for all employees minimizing risk to damage from cyberattack.

## **Recommendations**

**R4.1** By January 1, 2023, the Lodi City Council, in conjunction with the City's IT division, develop, adopt and implement a Business Continuity Plan.

## **5.0 City of Manteca–Discussion**

The City of Manteca met seven of the nine expectations considered in this investigation. Manteca's Information Technology department is independent in the City's organization. The department director reports directly to the City Manager and meets weekly with other City department heads. User level of access is determined by position, background and other departmental factors. Employees are trained on a regular basis. The training is mandatory for all employees. Hard drives are encrypted, and a Mobile Device Management tool is used for tablets, laptops and phones.

Manteca's ISD is currently updating its Information Technology Security Policy. This comprehensive policy has not been updated since 2010. Manteca's Department of Information Technology and Innovation is collaborating with City administration and the City Attorney to update all policies relating to information technology security. Similarly, the City is in the process of bringing both hardware and software systems up to next-generation standards with new firewall, malware, user access, backup systems and applications in place. Employee training is executed through KnowB4, an industry-standard cybersecurity training program which includes phishing and other email compromise testing.

Regarding firewalls and switches, roughly 60% still operate off single rather than dual or redundant power supplies. Over the next five years, the City is phasing out older devices as they reach end-of-life.

## Findings

**F5.1** The City of Manteca has an Information Technology Security Policy which has not been updated since 2010, leaving the City relatively unprepared for a cyber event.

**F5.2** The City of Manteca lacks a policy and procedure for ransomware attacks. This absence of policy could cause confusion, delay, and greater loss of security in the event of such an attack.

**F5.3** The City of Manteca has a significant number of security devices with single power supplies. This lack of redundant power presents vulnerability in major or prolonged power outages.

## Recommendations

**R5.1** By January 1, 2023, the Manteca City Council, in conjunction with the City's ISD, develop, approve and implement an updated Information Technology Security Policy.

**R5.2** By January 1, 2023, the Manteca City Council, in conjunction with the City's ISD, develop, approve and implement a confidential policy and procedure for response to a ransomware attack.

**R5.3** By March 1, 2023, the Manteca City Council, in conjunction with the City's ISD, develop, approve and adopt an updated timeline to replace single-powered units with dual-powered or redundant-powered units in their network architecture.

## 6.0 City of Ripon–Discussion

The City of Ripon has experienced turnover and vacancies in the IT Department in the past year. The Director of IT resigned in early 2021. Subsequently, another IT Director was hired but resigned within three months. The City has contracted with a former IT employee as a temporary IT Director and is currently updating the job description for a permanent director of the IT functions.

The City's organization chart does not include an IT department or department head. The only IT position shown is within the Police Department.

Data confidentiality is maintained through a three-tiered access structure. Management supervisors for each City department determine who has access to appropriate information. Sensitive data is held within a Computer Aided Dispatch Program or a Records Management System within the IT division of the Ripon Police Department. The sensitivity of data with all other City departments is determined by supervisors.

## Findings

**F6.1** It is unclear in the City of Ripon's Organization Chart where responsibilities for IT and IT security lie, creating confusion over who is responsible to act in a disruptive event.

**F6.2** The City of Ripon has a rudimentary network diagram outlining the City’s router and firewall relationship with networks used, but the diagram lacks detail, leaving uncertainty about data security.

**F6.3** Although the City of Ripon met expectations in the areas of data confidentiality and security, lack of IT staff and leadership leaves these areas vulnerable to cyberattack.

**F6.4** The City of Ripon lacks a Business Continuity Plan, rendering the City relatively unprepared to restore essential services in a disruptive event.

**F6.5** The City of Ripon does not have a Disaster Preparedness Plan, leaving the City at risk for significant delay and cost to restore IT systems in the event of a disaster.

**F6.6** The City of Ripon does not have a formal policy or procedure to address ransomware attacks. This absence of policy could cause confusion, delay and greater loss of security in the event of an attack.

## **Recommendations**

**R6.1** By January 1, 2023, the Ripon City Council develop and make public an updated City Organization chart showing details of the City’s IT functions, including all IT positions.

**R6.2** By January 1, 2023, the Ripon City Council develop and adopt a detailed Network Diagram to decrease security vulnerabilities.

**R6.3** By January 1, 2023, the Ripon City Council obtain a third-party security review of the City’s IT department assets, positions, and policies and an evaluation of data confidentiality, security systems and protocols.

**R6.4** By January 1, 2023, the Ripon City Council develop, adopt and implement a formal Business Continuity Plan.

**R6.5** By January 1, 2023, the Ripon City Council develop, adopt and implement a formal Disaster Preparedness Plan for IT functions.

**R6.6** By January 1, 2023, the Ripon City Council develop, adopt and implement a formal internal policy and procedure for response to a ransomware attack.

## **7.0 City of Stockton–Discussion**

The City of Stockton has a large IT department that oversees IT functions for all the City’s other departments. Data confidentiality and user access are determined departmentally, following uniform standards. Information is protected by many safeguards aiming not only to minimize risk of penetration but also to detect any breach that might occur. Stockton has both a BCP and a DPP. Stockton is one of very few cities having license to use a cybersecurity tool integrating the City with the State of California’s Office of Emergency Services. Stockton’s IT Director meets weekly with other department heads, updating them on all matters related to cybersecurity.

Stockton met each of the cybersecurity expectations except for the presence of a documented internal policy and procedure for response to a ransomware attack. However, the City does have a Cybersecurity Response Book detailing response procedures for other cyber events. Employee security awareness training is required every six months.

## **Findings**

**F7.1** The City of Stockton does not have a formal internal policy concerning payments or procedures in ransomware attacks. This absence of policy could cause confusion, delay and greater loss of security in the event of an attack.

**F7.2** The City of Stockton has a large IT Department which places cybersecurity and disaster preparedness at a high priority, minimizing risk to the City’s information and service systems.

## **Recommendations**

**R7.1** By November 1, 2022, the Stockton City Council, in conjunction with the City’s IT department, develop, adopt and implement a formal internal policy and procedure for response to a ransomware attack.

## **8.0 City of Tracy–Discussion**

The City of Tracy met all expectations for cybersecurity or was in the process of meeting them when surveyed. The City has an Information Technology Division, which is part of the Finance Department. This division supports all departments and functions of the City except water treatment. Data confidentiality and security are guaranteed with industry-leading, next-generation firewalls and network access controls. Data storage, backup and cybersecurity are monitored continually. The IT Manager meets every two weeks with all other City department heads to address IT issues, including cybersecurity.

Tracy does not require encryption of thumb drives used on City devices, a requirement that is considered a “best practice” by an expert witness.

Tracy does not have either a formal Business Continuity Plan or Disaster Preparedness Plan in place but is in the process of developing both. The BCP was scheduled to be complete in April 2022. Completion date for the DPP was not specified by the City.

## **Findings**

**F8.1** Lacking a requirement for encryption of thumb drives used on City devices exposes the City of Tracy to potential data theft and contamination.

**F8.2** The City of Tracy lacks a completed Business Continuity Plan, rendering Tracy relatively unprepared to restore essential services in a disruptive event.

**F8.3** The City of Tracy lacks a completed Disaster Preparedness Plan, leaving Tracy at risk for delay and cost to restore IT systems in the event of a disaster.

## **Recommendations**

**R8.1** By November 1, 2022, the Tracy City Council, in conjunction with the IT division, develop, adopt and implement a policy requiring encryption of thumb drives used on City devices.

**R8.2** By January 1, 2023, the Tracy City Council, in conjunction with the IT division, develop, adopt and implement a formal Business Continuity Plan.

**R8.3** By January 1, 2023, the Tracy City Council provide the Grand Jury with an updated formal Disaster Preparedness Plan.

## **Conclusion**

San Joaquin County is well protected regarding cybersecurity. The seven cities in the county vary with respect to Grand Jury expectations, most being well secured but lacking defined plans for Business Continuity and IT Disaster Preparedness. Cybersecurity is an evolving concern and requires ongoing efforts by government entities to remain current and vigilant against risks to their Information Systems.

In this investigation the Grand Jury learned from cybersecurity experts that three key elements lead to maximum agency cybersecurity:

- a dedicated information security position within each organization,
- a “seat at the table” with other agency department heads in regular meetings, and
- a rigorous employee education and training program in cybersecurity matters.

## **Disclaimers**

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

## **Response Requirements**

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

The San Joaquin County Board of Supervisors and the City Councils of each city addressed shall respond to all findings and recommendations specific to their city.

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

Honorable Michael D. Coughlan, 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)



## 2021–2022 San Joaquin County Grand Jury



### **Lathrop-Manteca Fire District: A Work in Progress: From Turmoil to Healing Case #0721**



### **Summary**

The Lathrop-Manteca Fire District (LMFD) grabbed public attention through media reports following a retreat held in Napa in February of 2021. The reports cited allegations of inappropriate behavior and improper use of the District's credit card for personal services,

personal items and the purchase of alcoholic beverages, all prohibited under the District's credit card policy. After media reports came to light, the LMFD Board of Directors employed a third party to investigate complaints regarding the retreat and the workplace environment. Upon completion of that investigation the Fire Chief retired with full benefits.

The District's Ordinance 1 grants the Fire Chief broad and autonomous powers to manage all aspects of the District. Ordinance 1, along with ineffective policies, provides little or no Board oversight of District management. The Grand Jury found that employees of the District endured a hostile work environment over several years stemming from abuses of power that included harassment, intimidation, financial mismanagement and retaliation. The caustic work environment left emotional wounds on the employees. In late 2021, The Board brought in outside trainers to assist the District in healing the wounds created by previous management. They are providing training and direction for improving the work environment, but healing is a process that will require significantly more time to effect results.

The Board of Directors is in the process of reviewing and updating policies and procedures, including Ordinance 1, but the process is not yet complete.

The Grand Jury recommends that the LMFD Board of Directors:

- replace Ordinance 1 with policies and procedures that clearly define the authority of the Fire Chief and provide greater Board oversight of the operations for the District;
- develop, adopt and implement a policy, with procedures for financial oversight, that includes a system of checks and balances;
- develop, adopt and implement updated travel and education policies compliant with the District Memorandum of Understanding for Executive Staff and the Fair Labor Standards Act;
- develop, adopt, and implement a formal employee complaint policy with procedures for filing complaints, reporting back to complainants and filing appeals;
- develop, adopt and implement an annual employee satisfaction survey and an employee engagement process to review survey results to ensure that new management and updated policies are providing a positive effect on the District's work environment;
- complete an investigation into allegations that merit increases or step increases were withheld from employees pending their signing a non-disclosure agreement; and
- complete an investigation into the allegations that non-exempt employees did not receive mileage payments and were not paid for overtime hours while attending the Napa retreat.

## Glossary

- **AB1234 Ethics Training:** Assembly bill for ethics training required for all elected government officials. Training includes promoting public trust, respect, fairness and responsibility.
- **BOD:** Board of Directors.
- **Brown Act:** Ralph M. Brown Act "requires local government business to be conducted at open and public meetings, except in certain limited situations. The Brown Act is based upon

state policy that the people must be informed so they can keep control over their government.” California Government Code beginning at Section 54950.

- **Cal Card:** Referred to as District Credit Card, one of the State of California's commercial card services programs available to State and publicly funded local agencies.
- **Cal-JAC:** The California Firefighters Joint Apprenticeship Committee is a standards-based apprenticeship program.
- **California Public Records Act:** Provides the public access to public records in the State of California.
- **FLSA:** The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping and employment standards affecting employees in the private sector and in Federal, State and local governments. “Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours – seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay. There is no limit on the number of hours employees 16 years or older may work in any workweek. The FLSA does not require overtime pay for work on weekends, holidays or regular days of rest, unless overtime is worked on such days.” And “Hours worked ordinarily include all the time during which an employee is required to be on the employer’s premises, on duty, or at a prescribed workplace.”
- **FPPC:** Fair Political Practice Commission. Every elected official and public employee who makes or influences governmental decisions is required to submit a Statement of Economic Interest, also known as the Form 700.
- **Form 700:** “Is the tool used by public officials to disclose their financial interests that may be affected by their public official decisions. This ensures that the public is aware of a public official's financial interests and also reminds the public official of potential conflicts.”
- **ISD:** Independent Special Districts. ISDs are a form of local government, with an independent governing board, that provide services to the community.
- **LAFCo:** Local Agency Formation Commission. A regulatory agency with a county-wide jurisdiction established by State law to coordinate logical and timely changes in local government and to ensure that services are provided efficiently.
- **LMFD:** Lathrop-Manteca Fire District.
- **MOU:** Memorandum of Understanding. A type of agreement between two or more parties.
- **Merit Increase:** Financial reward for good performance.
- **NDA:** Non-Disclosure Agreement. A legally binding contract that establishes a confidential relationship.
- **State of California Mass Mutual Aid System:** The state is divided into six mutual aid regions to facilitate the coordination of mutual aid to respond to the occurrence or imminent threat of a disaster.

- **Step Increase:** This is a periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade.

## Background

### **Mission-Vision Values-LMFD** (available at [www.lmfire.org](http://www.lmfire.org))

**Mission Statement:** Through professionalism and compassion we will serve all, by empowering our members who embody our core values.

**Vision Statement:** Preparing for the future, developing skilled leaders, training for your needs and serving in solidarity.

#### **Values Statement:**

**Members:** Value our members and promote a competent highly trained team with a devotion to duty, honored to provide service to our community.

**Service:** Professional service delivered with sincerity, dignity & respect to the growing diverse needs of our community.

**Passion:** Foster our insatiable need to develop and grow within our craft for our community.

**Leadership:** Embody the highest level of Servant Leadership at all levels within our organization demonstrated by our ethical actions to earn the respect of our members and stakeholders.

The Lathrop-Manteca Fire District provides fire protection and emergency services for the City of Lathrop and the rural areas surrounding both Lathrop and Manteca, encompassing approximately 90 square miles. Lathrop and the rural areas around Manteca are rapidly growing communities. The area population has grown more than 50 percent since the 2010 census and now has a population exceeding 37,000 residents.

The Fire District is organized under the State of California Health and Safety Code section 13800 Fire Protection District Law of 1987. LMFD is an Independent Special District in San Joaquin County funded by constituents' property tax assessments exclusively for fire and emergency services.

Currently, the District operates five fire stations strategically located based on population density and accessibility for optimum service requirements. Each station is staffed with an Engine Company and a Rescue Company. There are plans to build a sixth station in the area around River Islands, a newer master-planned community on the west side of Lathrop. Each station has one Battalion Chief or Captain who is responsible for management and oversight of the firefighting staff. All stations are staffed with career firefighting personnel. At least one

station is staffed by a combination of career and volunteer firefighters. Currently, the District firefighting staff consists of 40 career and 15 volunteer firefighters. Fire personnel from LMFD are also deployed throughout California as part of the State's Mass Mutual Aid System to respond to major wildfires as needed.

The District has an elected five-member Board of Directors serving overlapping four-year terms with elections held every two years. The Board is subject to the California Public Records Act and the Brown Act. The Board members are required to file Fair Political Practice Commission (FPPC) Statement of Economic Interests Form 700 to disclose any possible financial conflicts.

Each Board member is required to complete Ethics Training (AB1234) within 60 days of taking the oath of office and every two years thereafter. AB1234 Ethics Training includes promoting public trust, respect, fairness and responsibility. The training also addresses the importance of avoiding the appearance of impropriety, including receiving personal financial gain by public servants.

### **Reason for Investigation**

The Grand Jury received a written complaint and subsequently reviewed media reports of questionable expenditures by LMFD management.

### **Method of Investigation**

The Grand Jury conducted 16 interviews with the District's management, staff, Board members and residents.

### **Materials Reviewed**

- Articles of Incorporation of Behind the Fire LMFD, a Nonprofit 501(c)(3)
- Citizens Complaint Policy–LMFD
- City of Oakland Policy for Nepotism and Cronyism, City Ordinance 13645
- District Credit Card Policy–LMFD
- District Policies and Procedures–LMFD
- Fire Chiefs Firefighter Bill of Rights–LMFD
- LAFCo letter dated January 29, 2019, to the LMFD Board of Directors regarding the former Fire Chief
- LMFD Bylaws
- LMFD Mission, Vision and Values
- LMFD Ordinance 1
- LMFD Policy: Personal Relationships in the Workplace
- Manteca Bulletin article–November 6, 2021, “Firefighters train at swanky Napa resort complete with massages”

- Memorandum of Understanding (MOU) Between LATHROP-MANTECA FIRE PROTECTION DISTRICT And LATHROP-MANTECA FIREFIGHTERS ASSOCIATION INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL #4317, AFL-CIO effective Dates: July 1, 2020, through June 30, 2023
- Memorandum of Understanding (MOU) for MEMBERS OF THE EXECUTIVE STAFF of the Lathrop-Manteca Fire District July 1, 2020–June 30, 2023
- Superior Court of California–Case #STK-CV-UCP-2021-0009068
- Supporting financial documents

### Websites Searched

- *AB1234 Ethics Training*. (n.d.). www.fppc.ca.gov. Retrieved May 17, 2022, from <https://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html> 5.
- *About JAC*. (n.d.). California Firefighter Joint Apprenticeship Committee. Retrieved May 17, 2022, from <https://www.caljac.org/about-jac>.
- *About Lathrop*. (n.d.). City of Lathrop CA. Retrieved May 17, 2022, from <https://www.ci.lathrop.ca.us/community/page/about-lathrop>.
- *Cal Card Procurement Division*: <https://www.dgs.ca.gov/PD/>. Accessed May 11, 2022.
- *Charities and nonprofits | FTB.ca.gov. (2021)*. Ca.gov. <https://www.ftb.ca.gov/file/business/types/charities-nonprofits/index.html>. Accessed May 11, 2022.
- *elaws - Fair Labor Standards Act Advisor*. (n.d.). webapps.dol.gov. <https://webapps.dol.gov/elaws/whd/flsa/screen74.asp#:~:text=Employers%20who%20willfully%20or%20repeatedly,who%20was%20employed%20in%20violation>. Accessed May 12, 2022.
- *Enforcement | U.S. Department of Labor*. (n.d.). www.dol.gov. Retrieved May 17, 2022, <https://www.dol.gov/general/topic/youthlabor/enforcement#:~:text=It%20is%20a%20violation%20to>.
- *FPPC Home*. (n.d.). www.fppc.ca.gov. <https://www.fppc.ca.gov/>. Accessed May 12, 2022.
- *LAFCo: Local Agency Formation Commission*. (n.d.). Sjgov.org. Retrieved May 17, 2022, from <https://www.sjgov.org/commission/LAFCo/home>.
- *Lathrop Fire Home Page*. (n.d.). Lathrop Manteca Fire District. Retrieved May 17, 2022, from <https://www.lmfire.org/>.
- *Lathrop-Manteca Fire Protection District–Human Resources: Policies* <https://www.lmfire.org/administration/page/human-resources>. Accessed May 11, 2022.
- *LMFD Ordinance 1: Lathrop-Manteca Fire Protection District AGENDA 1. CALL TO ORDER 2. ROLL CALL 3. CLOSED SESSION: 3.1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: 4 Potential Cases. (2021)*.

[https://www.lmfire.org/sites/default/files/fileattachments/board\\_of\\_directors/meeting/5331/lmfd\\_special\\_board\\_meeting\\_packet\\_-\\_may\\_10\\_2021.pdf](https://www.lmfire.org/sites/default/files/fileattachments/board_of_directors/meeting/5331/lmfd_special_board_meeting_packet_-_may_10_2021.pdf). Accessed May 11, 2022.

- *Municode Library*. (2020) [municode.com](https://library.municode.com/ca/oakland/codes/code_of_ordinances)  
[https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances](https://library.municode.com/ca/oakland/codes/code_of_ordinances). Accessed May 12, 2022.
- *The Brown Act*: <https://oag.ca.gov/system/files/media/the-brown-act.pdf>. Accessed May 11, 2022.
- *U.S. Department of Labor*. (2021). *Wages and the fair labor standards act*. [Dol.gov](https://www.dol.gov/agencies/whd/flsa).  
<https://www.dol.gov/agencies/whd/flsa>. Accessed May 17, 2022.



## Discussions, Findings and Recommendations

### 1.0 Financial Matters and Board Training

#### 1.1 Financial Matters

##### Excerpts from ORDINANCE NO. 1

##### SECTION 1: OFFICERS

**Article 2.** The Fire Chief shall be the chief executive officer of the fire department and shall be appointed by the Board of Directors of the Lathrop-Manteca Fire District for an indefinite period of time, tenure of office shall depend upon his/her good conduct and efficiency.

**Article 7.** The Chief shall be held accountable to the Directors only, and shall make written and verbal reports thereto as the Directors may require. All other employees are accountable to the Chief only.

In 1997, the District passed Ordinance 1, along with accompanying rules and regulations, appointing the Fire Chief as the Chief Executive Officer of the District.

The Fire Chief, as CEO of the District, oversees every aspect of the District's operations, including financial, administration and firefighting efforts. Ordinance 1 grants the Chief broad authority to make decisions with little to no oversight by the Board. The District does not have a system of checks and balances to thwart financial abuse or malfeasance by the Chief, thus providing opportunity for financial abuse, which occurred in several ways over recent years.

The Cal-JAC program, funded by the State of California to support training of apprentice firefighters, provides reimbursement to fire departments and districts based on the number of hours spent training apprentice firefighters. In recent years, LMFD utilized funds from this program to purchase weightlifting equipment which was placed in a location where most firefighters have limited access. In 2021 over \$25,000 of Cal-JAC funds were spent on a staff retreat in Napa. That retreat was attended by 13 individuals, provided minimal training, damaged staff morale and generated media reports that placed the District in a negative light. District policies did not require Board approval for the use of Cal-JAC funds. Therefore, the funds were used at the sole discretion of the Chief.

Board members were not aware of the extent of financial latitude exercised by the Fire Chief until media reports disclosed the District's credit card receipts from the Napa retreat. Expenses from the retreat included recreational activities, personal services and alcohol, all of which are explicitly prohibited under the District credit card policy dated April 16, 2015. The District requires that the credit card program abides by the District's Purchasing Policy and requires that all purchases are provided in a warrant list for the Board of Director's approval.

Non-exempt administrative employees who were required by the Fire Chief to attend this retreat, which began on a Wednesday evening and ran until Sunday, received no overtime pay or compensatory time off for the time they were in attendance beyond their normal 40-hour work week. Also, those who drove their personal vehicles to the retreat did not receive mileage reimbursement. The LMFD MOU for Members of the Executive Staff states that Non-Exempt Employees are subject to FLSA requirements. The MOU also states that, "The Executive Assistant shall receive time and one-half pay or compensatory time off (CTO) for all Fire District Board Meetings, Special Board Meetings, and special functions assigned outside of their normal work hours." The same MOU states, "Employees who are directed by the Fire Chief or a designated representative to use their personal vehicle in the conduct of District business shall be compensated at the rate of current IRS factor per mile or shall be provided gasoline for the same vehicle."

In 2010, the District was assigned by the City of Lathrop to operate the City's annual raffle for Fourth of July fireworks booths. The District was also granted a license from the City to operate its own booth annually without participating in the raffle. In 2019, a 501(c)(3) nonprofit, Behind the Fire LMFD, was created with the former Chief's spouse listed as the incorporator and the agent of service for process. The service address for Behind the Fire LMFD was recorded as 800 J St., Lathrop, CA 95330, which is the same location as the District's administration office.

Behind the Fire LMFD assumed operation of the fireworks booth. The proceeds from the fireworks booth were spent outside of District control and without Board oversight.

These actions occurred without prior approval by the Board of Directors. Current policies, rules and regulations, and Ordinance 1 effectively allow the Fire Chief to take these types of actions at his or her sole discretion without Board approval or oversight.

## **Findings**

**F1.1** Ordinance 1 and District rules and regulations enable the Fire Chief to control most financial operations of the District with limited or no Board oversight, thus providing an opportunity for financial malfeasance.

**F1.2** Ordinance 1 and current policies allow the Fire Chief, as Chief Executive Officer, to alter or disregard District policies without approval by the Board, causing confusion and discord within the District.

**F1.3** The Board of Directors failed to enforce the District's Credit Card Policy providing an opportunity for financial malfeasance.

**F1.4** Requiring non-exempt administrative employees to attend a retreat that created overtime hours without compensation was in violation of the current Memorandum of Understanding and the Fair Labor Standards Act, opening the District to potential liability.

**F1.5** Funds generated for the use of the District through the Cal-JAC program were allocated to purchases, services and events, uses that were not in compliance with District's purchasing and credit card policies. These expenditures could be construed as misuse of funds.

**F1.6** Beginning in 2019 the District's fireworks booth was operated by the 501(c)(3) nonprofit Behind the Fire LMFD, overseen by a member of the Chief's family. This occurred with no oversight by the Board, who held the license for the booth, a situation that could expose the District and its Board to allegations of misconduct and malfeasance.

## **Recommendations**

**R1.1** By November 1, 2022, the Board of Directors replace Ordinance 1 in its entirety by developing, adopting and implementing policies and procedures that clearly define the authority, and limitations thereon, of the Fire Chief and provide greater Board oversight of the operations of the District.

**R1.2** By November 1, 2022, the Board of Directors develop, adopt and implement a policy to require Board approval for any alterations or deviations from established policies and procedures.

**R1.3** By November 1, 2022, The Board of Directors develop, adopt and implement a policy and procedure for financial oversight by the Board that includes a system of checks and balances.

**R1.4** By November 1, 2022, the Board of Directors develop, adopt and implement updated travel and education policies compliant with the District Memorandum of Understanding for Executive Staff and Fair Labor Standards Act.

**R1.5** By November 1, 2022, the Board of Directors develop, adopt and implement a policy with detailed procedures for the use of earned Cal-JAC program funds that is in accordance with the District’s purchasing and credit card policies.

**R1.6** By November 1, 2022, the Board of Directors appoint a committee of no less than three to pre-approve Cal-JAC expenditures.

**R1.7** By January 1, 2023, the Board of Directors develop, adopt and implement a policy and procedure for the operation of the fireworks booth raffle and for the operation of the District booth.

## **1.2 Board Training**

The Board of Director’s lack of training for government oversight and District policies granted the Fire Chief near autonomous authority over the District without including a system of checks and balances or an oversight function by the Board.

Under the California Public Records Act, the District’s five Board members are required to provide their AB1234 Ethics Training Certificates upon request. Historically the certificates have been posted on the LMFD website. Three Board member certificates currently posted on the website have expired, and two Board member certificates are missing.

## **Finding**

**F1.2.1** Board members’ AB1234 Ethics Training Certificates posted are expired or missing, indicating that some Board members may not be in full compliance with AB1234 regulations.

## **Recommendations**

**R1.2.1** By November 1, 2022, the Board of Directors complete required AB1234 training and make the Ethics Training Certificates available upon request per the California Public Records Act.

**R1.2.2** By January 1, 2023, the Board of Directors develop, adopt and implement a policy requiring all incoming elected, or appointed, Board members complete AB1234 training within 60 days of taking office.

## 2.0 Harassment and Intimidation: Board Oversight

The Grand Jury reviewed complaints made by employees against the Chief and managers alleging administrative staff members were harassed and intimidated in the days following the February 2021 retreat in Napa. Current District policies contain no procedures to refer complaints, or to appeal decisions, to the Board. Firefighters have a defined complaint/grievance process through their MOU, but administrative staff do not.

Board members were largely unaware of the extent of personnel issues and complaints until the Napa retreat came to light in media reports. When the Board learned of the issues, a third party was engaged to investigate complaints and personnel issues related to the off-site retreat.

### **Ordinance 1-General Conduct Code (6.)**

No member shall make contact with the Board of Directors, or an individual Board Member, regarding District Policies, Procedures, or related business without permission of the Fire Chief. Unless the contact is as a[sic] authorized representative of the employee group, or as a resident of the Fire District.

Several employees alleged that, after filing complaints against the Fire Chief, earned merit or step increases prescribed in Section 7A: Eligibility for Advancement in Pay, stipulated in the Executive Staff MOU, were withheld pending the signing of a Non-Disclosure Agreement (NDA). Staff viewed this as a form of coercion. There is currently no policy or procedure to address this situation.

Members of the firefighting and administrative staff reported that they felt intimidated, threatened or harassed to the point of taking medical stress leave, while some resigned their positions. There is at least one legal action filed (Superior Court of California–Case #STK-CV-UCP-2021-0009068) involving the District which cites multiple occurrences of intimidation and harassment.

Harassment by the District’s managers was not limited to employees. The San Joaquin County LAFCo sent a letter to the LMFD Board of Directors on January 29, 2019. Members of the LAFCo executive team wrote that they felt they were being harassed and intimidated by two LMFD chiefs while at the San Joaquin County Administration Building. In the letter, LAFCo stated, “In an effort to ensure LAFCo staff is comfortable in their work environment, they have been instructed not to interact with [redacted] in person or over the phone. In addition, [redacted] is not allowed to interact in person or over the phone with LAFCo staff.”

Employees also expressed concerns related to nepotism existing in the District where family members were hired for key positions or given preferential treatment, but the Board was unaware of these family connections/relationships. There have also been allegations of cronyism where preferential treatment or promotions were given to employees who were favored by the Chief. The District policy Personal Relationships in the Workplace was established on October 11, 2005, and revised on October 1, 2008. As written, this policy defines

personal relationships but does not set forth the expectations and best practices for employees in these relationships working together. There is also no language to prohibit direct supervision of relatives.

## **Findings**

**F2.1** The Board of Directors was not aware of issues that District employees had with the Chief. Ordinance 1 general conduct rule blocked employee accessibility to the Board. This situation contributed to a hostile work environment.

**F2.2** The District does not have a formal employee satisfaction survey or engagement process to allow employees to share work environment concerns with the Board and Management. The District is unable to implement warranted improvements for issues and concerns if they are not brought to light by employees.

**F2.3** Requiring non-exempt administrative employees to attend a retreat that created overtime hours without compensation was in violation of the current Memorandum of Understanding and the Fair Labor Standards Act. This action could expose the District to potential liability including financial penalties.

**F2.4** Allegations were made that merit or step pay increases were withheld pending the signing of a non-disclosure agreement which violates the District's Memorandum of Understanding for Executive Staff. If proven to be true, and not corrected, the District could be subject to legal action brought by affected employees.

**F2.5** Pending litigation filed against the Fire District by employees for harassment and intimidation could expose the District to expenses for financial settlements and legal fees.

**F2.6** The District does not have a nepotism and cronyism policy that prohibits the direct supervision of family members and/or individuals with whom the supervising manager has a romantic or other close personal, financial, business or political relationship. Not having a clear policy for nepotism and cronyism has created discord within the District.

## **Recommendations**

**R2.1** By December 1, 2022, the Board of Directors develop, adopt and implement a formal employee complaint policy with procedures for filing complaints, reporting back to complainants, filing appeals and providing accessibility to the Board while adhering to all laws and rules regarding confidentiality.

**R2.2** By January 1, 2023, the Board of Directors develop, adopt and implement an annual employee satisfaction survey and employee engagement process to review survey results to ensure that new management and updated policies are providing a positive effect on the District's work environment.

**R2.3** By November 1, 2022, the Board of Directors complete an investigation into the allegations that non-exempt employees did not receive mileage payments and were not paid for overtime hours while attending the Napa retreat and, if the allegations are found to be true, take corrective action to ensure payments are made to the affected employees within 30 days thereafter.

**R2.4** By November 1, 2022, the Board of Directors complete an investigation into allegations that merit and/or step increase payments were withheld from employees pending the signing of a non-disclosure agreement and, if the allegations are found to be true, take corrective action to ensure payments, including applicable retroactive pay, are made within 30 days thereafter.

**R2.5** By December 1, 2022, the Board of Directors develop, adopt and implement an updated policy addressing nepotism and cronyism in the District.

### **Conclusion**

The Lathrop-Manteca Fire District Board of Directors is taking steps toward creating an improved culture by updating policies and by defining LMFD's mission, vision and values. The District improvement process is a work in progress. The Board acknowledges that the District will need more time to heal and restore trust following the turmoil and upheaval created under previous management. The Board employed a third party to conduct the search and screening process for hiring the permanent Fire Chief. The Board believes that the selection of a new Chief is a critical decision that must be done correctly if the Lathrop-Manteca Fire District is to move in a positive and effective direction.

### **Disclaimers**

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

### **Response Requirements**

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

The Lathrop-Manteca Fire District Board of Directors shall respond to all findings and recommendations.

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

Honorable Michael D. Coughlan, 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: Law and Justice**

Law and Justice Report

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## 2021–2022 San Joaquin County Grand Jury



### Law and Justice



### Introduction and Background

California Penal Code sections 919(a) and 919(b) authorize the 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 may investigate matters pertaining to law enforcement including sheriff, police, juvenile justice, public safety and probation.

### Summary

The 2021-2022 Grand Jury Report focuses on these law enforcement agencies within San Joaquin County:

- the six city police departments within the County;
- the San Joaquin County Sheriffs' Office; and
- the San Joaquin County Probation Department.

The Grand Jury surveyed six (Escalon, Lodi, Manteca, Ripon, Stockton, and Tracy) city police departments and the County Probation Department. Lathrop contracts police services with the County Sheriff's Department; therefore, it was not surveyed independently. The surveys addressed employment (recruitment, hiring and retention), use of COVID-19 funds and execution of COVID-19 protocols. In addition, the Grand Jury received presentations from the Stockton, Tracy, Manteca, Lodi and Ripon Police Departments, the Sheriff's Office and the San Joaquin County Probation Department. The Grand Jury toured the San Joaquin County Jail and the Juvenile Detention Facility. Several Grand Jurors went on ride-a-longs with the Stockton, Lodi, Tracy, Manteca, Ripon and Escalon Police Departments and the Sheriff's patrol division. This report includes information gleaned from the survey responses, the presentations, the facility visits and independent research of agency websites.

All the departments are faced with recruiting, hiring and retention challenges. Fewer people want to become law enforcement officers, and pay scales are lower in San Joaquin County than those in surrounding counties. While all departments follow Center for Disease Control (CDC) health and safety guidelines for COVID-19, each has its own policies and procedures for vaccinations, masking and COVID-19 testing. Departments received varying amounts of COVID-19 relief funding.

## Glossary

- **AB109:** Assembly Bill 109 establishes the California Public Safety Realignment Act of 2011 which requires certain non-violent, non-serious and non-sex offenders who are released from California State prisons to be supervised at the local county level. It was enacted to combat recidivism, not to reduce over-crowded prison populations.
- **CAIRE:** Citizens Assisting Investigations Recorded Electronically is a voluntary program that partners with Ripon residents "to maintain a database of camera locations which will help to identify suspects and solve crimes faster. The program allows owners to inform the [Ripon Police Department] about their security camera systems at both private residences and local businesses."
- **CDC:** Federal Center for Disease Control located in Atlanta, Georgia.
- **DJJ:** California Division of Juvenile Justice.
- **Lateral Officer:** Applicants in this group are generally experienced law enforcement officers recruited from other agencies.
- **LEAD:** Law Enforcement Applicant Development.
- **Lexipol:** A private company that provides policy manuals, training bulletins and consulting services for law enforcement agencies.
- **Lexipol Policy #1000:** Provides a framework for employee recruitment efforts and identification of job-related standards for the selection process.
- **NARCAN:** Naloxone HCl is a nasal spray used to treat opioid overdose.
- **Part-Time Academy:** Applicants are enrolled in the extended Peace Officer Standards and Training accredited police academy. This academy usually meets nights and weekends.

- **PCR:** Polymerase Chain Reaction. This is a diagnostic test that determines if an individual is infected with the COVID-19 virus. The PCR test has been the gold standard for diagnosing COVID-19 since authorized for use in February 2020.
- **P.O.S.T.:** Peace Officer Standards and Training.
- **PPE:** Personal Protective Equipment.
- **SJC:** San Joaquin County.

## **Stockton Police Department**

In 1851, the State of California approved and accepted the charter of Stockton. Stockton is the largest city in San Joaquin County both in geographic size and population with approximately 320,000 residents and encompassing approximately 65 square miles.

The Stockton Police Department's stated mission is "to work in partnership with our community, to build and maintain relationships founded on trust and mutual respect, while reducing crime and improving the quality of life."

Currently, the Stockton police force has 485 sworn police officer positions authorized with 436 positions filled. There are 226 non-sworn positions primarily assigned to custody, technical services and administration.

Recruitment is an ongoing challenge. The Department is in the third year of a recruitment and hiring plan. This plan established the Stockton Public Safety Academy, a 5<sup>th</sup> through 12<sup>th</sup> grade school program with a criminal justice focus. Additionally, the Police Department is collaborating with Law Enforcement Applicant Development (LEAD) which involves partnering with representatives from several organizations in the community, including the NAACP, Downtown Stockton Alliance, Stockton Chamber of Commerce, El Concilio and other organizations representing specific groups of residents who want to participate and have their voices heard in police decisions. The Department has studied internal attrition rates and estimates they will need to hire between 60-65 officers each year to maintain the sworn staffing level of 465. Recruitment and hiring receive top priority.

The City of Stockton was awarded approximately \$972K from the Department of Justice (DOJ) in COVID-19 funds. Funds were spent city-wide on materials and supplies to outfit a new Emergency Operations Center, critical incident vehicles, personal protective equipment (PPE), some overtime expenses and equipment to allow for remote work and training.

The Police Department does not have a mandatory vaccination or testing requirement. There is no requirement to report vaccination status. Employees are subject to quarantine if they become symptomatic. Employees were, and are still, not mandated to wear masks if they are fully vaccinated or have an exemption for religious or medical reasons. As of February 22, 2022, the Department experienced 314 positive cases for COVID-19.

## **Tracy Police Department**

Tracy has a population of approximately 93,000 according to the 2020 Census. Tracy covers approximately 21 square miles and is the second most populated city in San Joaquin County. The City was incorporated in August of 1910 and formed its first law enforcement department with the selection of a Marshal, a Night Watchman and a Pound Master to help rid the city of dogs running at large.

The Tracy Police Department mission is to provide the community of Tracy with basic and extended services that offer opportunities for individuals, families and businesses to prosper as they live, work and play in Tracy. The Department's operational values include customer service, honesty, excellence, respect, innovation, stewardship and loyalty.

Today, the Department consists of 100 sworn officers and 53 non-sworn staff who provide administrative support to sworn officers. The Department recruits for open positions through many programs, including Academy Sponsor Trainee, Academy Graduate, Part-Time Academy and Lateral Officer groups. Other recruitment tools include the Recruitment Incentive Program, a recruitment website, video campaigns and academy site visits. The Recruitment Incentive Program is an internal program in which any officer who recruits a lateral officer to the Department is awarded \$1,000, with half awarded at the time of hiring and the balance awarded after the recruit completes the field officer training program. Recruitment and retention continue to be a challenge for the Department.

The Department received approximately \$38K in COVID-19 funds from the DOJ which were used for PPE. Since January 6, 2021, the Department has offered free Polymerase Chain Reaction (PCR) and rapid testing for Department employees. The Department uses a voluntary procedure for reporting COVID-19 testing through Human Resources. As of December 9, 2021, 54, or 35% of employees, were fully vaccinated. The number of partially vaccinated employees was not available. A total of 124 employees were not vaccinated for COVID-19. As of December 9, 2021, 23 sworn officers and six non-sworn staff tested positive for COVID-19.

## **Lodi Police Department**

The City of Lodi was founded as a township in August 1869. The County and the township citizenry supplied law enforcement until 1906 when the City was incorporated. Since the Lodi Police Department's formation in 1906, the Department has grown to include 77 authorized sworn officer positions, 48 non-sworn employees and roughly 50 volunteers serving approximately 70,000 citizens and approximately 14 square miles of jurisdiction. The total number of sworn police officers is currently 71, leaving six positions unfilled.

The Department's mission is to ensure the safety and security of the community by reducing crime, creating strong partnerships and investing in its employees to prepare for the future.

Hiring challenges include fewer people wanting to become law enforcement officers, pay scales that are lower than those in surrounding counties, and applicants not passing the background check and a drug test. Once hired, Department employees are not subject to random drug tests.

The Lodi Police Department follows both State and County health guidelines for COVID-19. There are no additional departmental mandates. The Department does not mandate that uniformed or administrative employees be vaccinated. Detainees experiencing any symptoms of COVID-19 or having recently tested positive for COVID-19 are transported to Lodi Memorial Hospital for medical clearance and booked into the San Joaquin County jail. The Department received an allocation of approximately \$79K from the DOJ and used these funds to purchase PPE, Narcan analyzers and laptops for remote work.

### **Manteca Police Department**

Manteca has a population of approximately 83,000 residents in approximately 21 square miles. The City was founded in 1861. It was incorporated on May 28, 1918, with a population of 315 residents. A police department was established on that date with one Town Marshal responsible for the entire population.

The Manteca Police Department states that it is “dedicated to reducing crime and providing for the safety of our citizens and visitors.” The Department motto is “Duty to Serve.”

Today the Department has 76 authorized sworn officer positions and 33 non-sworn staff. Currently, the Department has four open sworn officer positions. The Department recruitment and hiring policies follow Lexipol Policy #1000. Recruitment efforts are through outreach to the media, community groups, citizen academies, local colleges, universities and the military. The hiring process consists of written, oral and physical ability tests as well as background investigations and medical exams. The process takes about two and a half to three months to complete. The Department states that it “is committed to growing [its] ranks with qualified and diverse sworn and non sworn [sic] staff. Our goal is to have a Department compiled of qualified personnel reflective of the community we serve.”

Throughout the COVID-19 pandemic, Manteca has followed the CDC and San Joaquin County Public Health regulations. The City of Manteca received a grant of approximately \$54K from the DOJ for COVID-19 purposes. The Department used its share of the funds within two years, as required. The funds were used for PPE. The Department instituted masking policies for staff and visitors in alignment with both the CDC and County Department of Public Health. The Department does not have vaccination or testing mandates. COVID-19 testing is available but not required. The percentage of fully vaccinated staff as of the Grand Jury survey was 43%. As of April 7, 2022, 33 sworn officers and eight non-sworn staff tested positive for COVID-19.

### **Ripon Police Department**

Ripon, a city with a population of approximately 16,000 covering approximately six square miles, is the second smallest city in San Joaquin County by both population and area. The City was incorporated in 1945 with a population of less than 1,500 and established its police department with one patrolman in 1946.

The Ripon Police Department’s job openings are posted on its website. The Department also recruits from the local police academies. Currently, the Department is fully staffed with 24

sworn and 15 non-sworn staff, but recruitment and retention remain challenging. The Department specifies that, in addition to all other qualifications for the position, a candidate must live within a 35-mile-radius of the city.

The Police Department works directly with the community to build relationships through various outreach programs, such as the Explorer Program, Citizens Assisting Investigations Recorded Electronically (CAIRE) Program, Neighborhood Watch Program and more.

The Ripon Police Department follows San Joaquin County Public Health and CDC guidelines for COVID-19 related policies and procedures by conducting regular temperature checks, requiring masks and safe distancing while with the public and within the department, and making COVID-19 test kits available. No data has been provided for how many staff members are vaccinated. According to the survey response and from the Police Chief’s presentation, 10 sworn staff and two non-sworn staff tested COVID-19 positive as of February 16, 2022.

The City received approximately \$196K from the State of California Coronavirus Relief Fund. The funds were used for city-wide purchase of PPE, payroll for public safety employees, work force advancements, small business assistance and unemployment payments. The specific amount the Police Department received was not provided.

### **Escalon Police Department**

Although the City of Escalon responded to the survey, the provided information needed further clarification. Due to circumstances beyond the Grand Jury’s control, additional information was unavailable.

### **Comparison of Cities At-a-Glance**

<b>Name of City Police Department</b>	<b>City Population per 2020 Census</b>	<b>Sworn Positions Funded/Filled</b>	<b>Number of Admin Staff</b>	<b>Amount of DOJ COVID-19 Funds Received</b>
Lodi	66,348	77/71	48	\$72,318
Manteca	83,498	76/72	33	\$53,810
Ripon	16,013	24/24	15	\$196,000**
Stockton	320,804	485/436	226	\$972,181
Tracy	93,000	*/100	53	\$37,584

*Data collected from the Grand Jury survey responses and agency presentations*

*\*Information not provided*

*\*\*State funds provided*

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

Established in 1849, the San Joaquin County Sheriff's Office's mission is to be dedicated to, and passionate about, community-oriented policing. The Sheriff's Office is staffed with over 800 sworn and support personnel as well as volunteers for different programs.

The Sheriff's Office provides the estimated 774,000 residents of San Joaquin County with civil, public administration, custody, airport security and animal services. The Sheriff's Office also serves as the primary law enforcement agent to approximately 156,000 residents in the unincorporated areas of San Joaquin County. The unincorporated areas encompass approximately 1,270 square miles and are primarily rural, with several small pockets within city boundaries. The Sheriff's Patrol Division uses modern technology and devices, such as drones and robots, in dangerous situations to ensure safety for the community and responding officers.

The SJC Sheriff's Office received approximately \$64.3M from the COVID Cares Act and an additional estimated \$180K from the Coronavirus Emergency Supplemental Grant. A significant, but unspecified, portion of the money was used for reimbursement of salaries and benefits. Funds were also used to purchase one inmate transport bus, PPE and other supplies. As of October 2021, 109 staff had been infected with COVID-19, and 286 inmates tested positive for COVID-19 in the main jail and Honor Farm. No inmate deaths due to COVID-19 were reported. Through AB109 funding for the community corrections program, the Sheriff's Office received approximately \$6.8M. This funding supports and promotes jail programs such as religious services, alcohol/drug/substance abuse programs, and domestic violence classes run by more than 150 volunteers.

## **San Joaquin County Probation Department**

The San Joaquin County Probation Department was established in the early 1900s. Peterson Hall, the juvenile detention facility operated by the Probation Department, temporarily detains youth from the time of arrest through their court proceedings. If the case is not dismissed and the offender is not acquitted, then they are remanded back to probation, local custody or a state detention facility.

The Grand Jury received presentations by the Chief Probation Officer regarding juvenile probation programs and visited the San Joaquin County Juvenile Detention Facility. During the facility tour of the living areas, wards served as tour guides for the Grand Jury and shared their insights about the programs provided by the Probation Department. A few individuals shared their future aspirations once they are back in the community. Currently, there are 50 wards from diverse ethnic groups detained in this facility.

As an ongoing effort to reduce recidivism, the Probation Department promotes social skills through numerous programs. Under the Juvenile Justice Realignment Program, the County provides treatment options for youth in custody including group counseling, individual therapeutic treatment, psychiatric treatment and medical support. Before sentencing, juveniles are provided services such as substance abuse counseling, career technical education and

trauma-informed treatment. In addition, programs targeted to youth while detained at the facility include victim awareness, interactive journaling, victim empathy and gang awareness. The Probation Department also provides vocational training and post-release services.

The Juvenile Justice Realignment Block Grant Program appropriates funds to support “county-based custody, care and supervision of youth who are realigned from the Division of Juvenile Justice or who have otherwise been eligible for commitment to the division.” County Probation also plans to use Juvenile Justice Realignment Block Grant funds to address mental health issues, sex offender treatment and related needs to juveniles in custody and upon release into the community. The Probation Department works in collaboration with other agencies to provide services and treatment as part of the realignment effort.

Due to the closure of O.H. Close and N.A. Chaderjian, two State juvenile facilities located in San Joaquin County, as of September 2021 ten youth offenders were sent to the juvenile division of SJC Probation Department. Through the State’s AB109 funding, the Probation Department received approximately \$10.8 million for the year 2021-2022 to support AB109 activities, including “63.3 positions planned within the AB109 and Pretrial Services budget units.”

## Section IV: Follow up

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Follow up



# 2021-2022 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:

4. The recommendation has been implemented, with a summary regarding the implemented action.
5. The recommendation has not yet been implemented but will be implemented in the future, with a time frame for implementation.
6. 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.
7. The recommendation will not be implemented because it is not warranted or is not reasonable, with a justification for that response.

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 the implementation has been completed at the time indicated by the agency.

When agencies respond 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.

This section of the 2021-2022 Grand Jury's Final Report contains the responses to the 2020-2021 reports, as well as the follow up to several reports from prior grand juries. Previous years' 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 2021-2022 Grand Jury also determined whether additional follow up is needed.

# Follow-up Report to the 2018-2019 San Joaquin County Grand Jury



## Micke Grove Zoo Honoring the Past, Securing the Future Case #0218

### Preface

This report contains a continuation of the responses to the 2018-2019 San Joaquin County Civil Grand Jury report regarding Micke Grove Zoo. The first follow-up report was presented in the 2019-2020 Grand Jury report. The 2019-2020 Grand Jury reviewed the responses and made new recommendations. The second follow-up report was presented in the 2020-2021 Grand Jury report. The 2020-2021 Grand Jury reviewed the responses and made new recommendations.

The 2021-2022 Grand Jury reviewed the agency responses to those recommendations. The follow-up conclusions are presented after the agency responses.

**Discussions, findings, and recommendations from the 2021-2022 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2018-2019 Grand Jury found Micke Grove Zoo had suffered from inadequate funding and outdated facilities for years. Recommendations were made to update and improve the Zoo in the hopes it will continue to be a viable amenity for residents. The 2019-2020 Grand Jury found some of the recommendations had been fulfilled while more time was needed to complete others. The 2020-2021 Grand Jury confirmed the San Joaquin County General Services and the Parks and Recreation departments have designed and presented their vision along with a five-year master plan to the County Board of Supervisors. The Board of Supervisors accepted the outlined plan with regard to specific strategies and tactics and acknowledged the vision with its seven overarching objectives. The plan serves as a foundation to advance the Zoo's mission and allow it to be a place of enjoyment for the residents of San Joaquin County.

The 2021- 2022 Grand Jury found the five-year plan, as presented, did not contain a plan to examine the requirements, affordability, and suitability of obtaining accreditation from accrediting associations.

## Method of Follow-Up Investigation

The 2021-2022 Grand Jury reviewed the 2020-2021 responses to the 2018-2019 report, #0218, *Micke Grove Zoo: Honoring the Past, Securing the Future*, and documented the mandatory responses to the findings and recommendations. The 2021-2022 Grand Jury reviewed the responses to the recommendations to determine:

- if the agency responses were complete and comprehensible;
- if the agency implemented the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

## Glossary

- **County:** San Joaquin County
- **Zoo:** Micke Grove Zoo

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

### 2020-2021 Grand Jury Discussion, Findings, and Recommendations

San Joaquin County General Services Department presented a five-year plan to the Board of Supervisors on February 23, 2021. The plan's vision centers on seven objectives, one of which is to examine the requirements, affordability and suitability of obtaining accreditation from available accrediting associations. Currently Micke Grove Zoo does not have accreditation. The General Services Department is investigating the feasibility and value of zoo accreditation.

**2020-2021 Grand Jury Finding F1:** Micke Grove Zoo still does not have zoo accreditation.

***Agency Response:*** *Agree.*

**2020-2021 Grand Jury Recommendation R1:** *The San Joaquin County General Services Department present its findings regarding zoo accreditation, including a timeline, to the Board of Supervisors by December 31, 2021.*

***Agency Response:*** *This recommendation will be implemented. In accordance with the Micke Grove Zoo's Five Year Strategic Plan, the Park Administrator and the Zoo Manager are actively engaged in accreditation recommendation discussions, which include evaluation of a realistic timeline. The General Services Director and Park Administrator will present the findings and make a recommendation to the Board of Supervisors prior to December 31, 2021.*

**San Joaquin County General Services Department presented an accreditation plan to the Board of Supervisors on December 14, 2021.**

**The 2021-2022 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 Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).



# Follow-up Report to the 2019-2020 San Joaquin County Grand Jury



## Illegal Dumping: Talking Trash

### Case #0519

#### Preface

This report contains a continuation of the responses to the 2019-2020 San Joaquin County Civil Grand Jury report regarding illegal dumping in San Joaquin County. The first follow-up report was presented in the 2020-2021 Grand Jury report. The 2020-2021 Grand Jury reviewed the responses and made new recommendations.

The 2021-2022 Grand Jury reviewed the agency responses to those recommendations. The follow-up conclusions are presented after the agency responses, which are presented verbatim in this report.

**Discussions, findings and recommendations from the 2021-2022 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2019-2020 Grand Jury investigated the complex issue of illegal dumping in San Joaquin County. The investigation produced multiple findings and recommendations, requiring responses from the County Board of Supervisors and the City of Stockton. The City of Stockton responded with their willingness to participate in all the recommendations. Their participation, however, is dependent upon developing and mobilizing the illegal dumping Task Force by San

Joaquin County. It is possible that the outbreak of the COVID pandemic had a direct impact on the ability to fulfill the recommendations of the Grand Jury.

The 2020-2021 Grand Jury made multiple attempts to obtain verification of the Task Force formation, as well as resolution of the recommendations. Only the recommendation of the assignment of an Administrative Hearing Officer for code enforcement were fulfilled. All other recommendations remained unsatisfied.

The 2021-2022 Grand Jury verified that the Task Force has been created and has held several meetings to discuss the issue of illegal dumping in the county. Other recommendations were also fulfilled, but several remain unresolved.

### Method of Follow-Up Investigation

The 2021-2022 Grand Jury reviewed the 2020-2021 responses to the 2019-2020 report, # 0519, *Illegal Dumping: Talking Trash*, and documented the mandatory responses to the findings and recommendations. The 2021-2022 Grand Jury reviewed the responses to the recommendations to determine:

- if the agency responses were complete and comprehensible;
- if the agency implemented the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

### Glossary

- **CDD:** Community Development Department
- **County:** San Joaquin County
- **GORequest:** San Joaquin County website to report service requests
- **Rec #:** Recommendation number

### Summary of Responses and 2021-2022 Grand Jury Conclusions

Respondent	2020-2021 Rec #	Response	2021-2022 Grand Jury Conclusion		
			Rec #	Due Date	Conclusion
SJC Board of Supervisors	R1	Will be implemented	R1	September 30, 2022	Further action required
	R2.1	Will be implemented			Implemented No further action
	R2.2	Will be implemented	R2	September 30, 2022	Further action required
	R3	Implemented			No further action

Respondent	2020-2021 Rec #	Response	2021-2022 Grand Jury Conclusion		
			Rec #	Due Date	Conclusion
SJC Board of Supervisors	R4	Will be implemented	R3	September 30, 2022	Further action required
	R5	Implemented			No further action
	R6	Implemented			No further action
	R7	Implemented			No further action

## Findings, Recommendations, and Agency Responses

### Board of Supervisors

**2020-2021 Grand Jury Finding F1:** Illegal dumping continues, in part, because the County has still not created a strong, enforceable ordinance to deter illegal dumping.

***Agency Response:*** Agree. The County concurs with the finding that a strong, enforceable ordinance with sufficient funding for investigation, citation, and administration will assist in deterring some illegal dumping.

**2020-2021 Grand Jury Finding F2:** San Joaquin County still lacks sufficient surveillance equipment to monitor dumping hotspots and to prosecute illegal dumpers.

***Agency Response:*** Partially disagree. Currently, cameras have been deployed in hot spot areas through the Sheriff's Office and District Attorney's Office. However, the surveillance video collected is often not sufficient to prosecute illegal dumpers. If the video does not show the dumper's face clearly enough for a positive identification, then video is not enough to lead to prosecution. Under current State law, the license plate of the vehicle used is not sufficient to prosecute the owner of the vehicle. The County is exploring ways that video surveillance can be used more effectively to lead to meaningful citation or prosecution, including a process where the County can cite the vehicle owner for the use of the vehicle for illegal dumping.

**2020-2021 Grand Jury Finding F3:** No verifiable information regarding the existence of the Joint Illegal Dumping Pilot Project or Task Force have been provided, thus the Grand Jury cannot definitively conclude that such programs exist.

**Agency Response:** *The Joint Illegal Dumping Task Force met on June 26, 2020, July 10, 2020, July 27, 2020, August 3, 2020, August 10, 2020, and January 15, 2021. Members of various agencies and community groups participated in these meetings, including:*

- *San Joaquin County Administrator's Office*
- *San Joaquin County Board of Supervisors*
- *San Joaquin County Community Development*
- *San Joaquin County Counsel*
- *San Joaquin County District Attorney's Office*
- *San Joaquin County Environmental Health*
- *San Joaquin County Public Works*
- *San Joaquin County Sheriff's Office*
- *City of Stockton City Manager's Office*
- *City of Stockton Public Works*
- *City of Stockton Police Department*
- *Delta Neighborhood Watch*
- *Country Club/River Drive*
- *209 CARES*

*This group will be included in ordinance development and assist in identifying necessary resources, staffing, and workflow processes for effective enforcement of the ordinance.*

**2020-2021 Grand Jury Finding F4:** Legal limitations continue to prevent each jurisdiction from sharing the specific costs of cleanup outside of their respective jurisdictions, making a coordinated response difficult.

**Agency Response:** *Partially disagree. The law does not allow one jurisdiction to use funding that is allocated for a specific purpose in a separate jurisdiction. Effective coordination comes from shared data and consistent ordinances, strategies, and enforcement. That type of coordination will assist in deterring illegal dumping and the ability to apply for and receive funding and grant awards relating to illegal dumping.*

**2020-2021 Grand Jury Finding F5:** Free drop-off services continue to be underutilized because the public is unaware of most of the programs offered.

**Agency Response:** *Disagree. In 2020, due to COVID-19, only 3 "Free Dumpster Day" events were held. To date in 2021, 36 "Free Dumpster Day" events for San Joaquin County and the City of Stockton have been held, and an additional six recycling and E-Waste events were held. These events were advertised through social media platforms such as Facebook. Flyers were also printed in English and Spanish, and were distributed door-to-door and in community centers. The Community Development Department, Code Enforcement Division, held 12 events during the 2020 calendar year collecting 75 dumpsters containing 302,650 tons of trash, garbage, junk, and debris. The department provided more than 170 dump passes to assist residents with items that could not be collected at the event sites. The number of residents coming to the Free Dumpster Day*

*events and using free dump passes indicates that the public is aware of those programs. The County is dedicated to continuing to create and publicize such programs.*

**2020-2021 Grand Jury Finding F6:** There is no formal procedure to ensure complaints are resolved.

***Agency Response:*** *Disagree. Complaints are received through the GORquest system for Public Works and the permit tracking system for the Community Development Department (CDD). Complaints received by CDD are taken to a meeting with Environmental Health and Sheriff staff on a weekly basis to determine the best course of action for resolving the complaints. They are then assigned to the appropriate County department for resolution. Complaints received by Public Works are assigned to the Road or Channel Maintenance divisions. If the dumping occurs on private property or in one of the cities, it is referred to the appropriate jurisdiction for resolution.*

**2020-2021 Grand Jury Finding F7:** Fee waivers, coupons, and vouchers are available, but are still not being utilized.

***Agency Response:*** *Partially agree. San Joaquin County Department of Public Works has agreements in place with franchised residential waste collectors that provide for additional services for customers to dispose of bulky items that will not fit into residential waste containers. This service is provided to residential customers to assist with the disposal of large items or extra garbage and to discourage illegal dumping. The additional services available to residential collection customers vary by contract and range from dump vouchers to bulky item pick-up services. See Page 6 for a breakdown of additional services per County Service Area.*

*In addition to the waivers, coupons, and vouchers, Free Dumpster Day events have been offered, which are more convenient for the public as the services are brought directly to them. The Community Development Department, Code Enforcement Division, has held 12 events during the 2020 calendar year in which more than 170 dump passes were distributed to residents.*

**2020-2021 Grand Jury Recommendation R1:** *By December 31, 2021, develop and adopt, an enforceable ordinance to deter illegal dumping which included a mechanism for collecting fines, an appeals process, and a way to recoup the cost of administration from the illegal dumpers.*

***Agency Response:*** *Will be implemented. The County will work on developing an ordinance, but potentially not by December 31, 2021, to deter illegal dumping and hold illegal dumpers accountable that includes a mechanism for collecting fines, an appeals process, and a way to recoup some of the costs of administration from the illegal dumpers.*

**2021-2022 Grand Jury Discussion, Findings and Recommendations**

A draft ordinance is complete and will be part of an illegal dumping mitigation package proposed for approval to the Board of Supervisors by early summer of 2022.

**2021-2022 Grand Jury Finding F1:** Because the County has not created a strong, enforceable ordinance, illegal dumping continues without consequences.

**2021-2022 Grand Jury Recommendation R1:** By September 30, 2022, the Board of Supervisors adopts an enforceable ordinance to deter illegal dumping. This ordinance will include a mechanism for collecting fines, an appeals process, and a way to recoup the cost of administration from the illegal dumpers.

**2020-2021 Grand Jury Recommendation R2.1:** By December 31, 2021, obtain and install appropriate surveillance equipment, such as lighting and cameras, in the top five dumping hotspots.

***Agency Response:** Will be implemented. Through the ordinance development and resource allocation process, the County will consider the type and amount of appropriate surveillance equipment necessary to assist with enforcement and to deter illegal dumping, but potentially not by December 31, 2021.*

**Cameras have been installed in multiple locations, including the top five dumping spots. The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R2.2:** By December 31, 2021, develop and adopt a plan for ongoing monitoring of the cameras.

***Agency Response:** Requires further analysis. The County will develop and adopt a plan for appropriate and effective monitoring of the cameras in such a way that the information can be used in the citation or prosecution of the illegal dumper, but potentially not by December 31, 2021.*

**2021-2022 Grand Jury Discussion, Findings and Recommendations**

Cameras have been installed in multiple locations, including the top five dumping spots, but the cameras are not being used in a manner that allows for effective citing and prosecution of illegal dumpers.

**2021-2022 Grand Jury Finding F2:** San Joaquin County still lacks the capability to monitor dumping hotspots and to prosecute illegal dumpers.

**2021-2022 Grand Jury Recommendation R2:** By September 30, 2022, approves a plan to effectively monitor the surveillance cameras.

**2020-2021 Grand Jury Recommendation R3:** By December 31, 2021, develop and adopt the county-wide Task Force, which includes representation from San Joaquin County Public Works Department, Sheriff’s Office, District Attorney’s Office, Community Development, and all cities within the County. This Task Force meet regularly throughout the year.

***Agency Response:*** *Has been implemented. The County has created a Task Force including the recommended Departments/Offices and the City of Stockton. The County will create similar Task Forces or, alternatively, include the other six incorporated cities in the existing Task Force through the ordinance development process.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R4:** By December 31, 2021, the newly formed Task Force develop a plan to share costs for illegal dumping pickup throughout the County and the City of Stockton.

***Agency Response:*** *Requires further analysis. As a step toward implementing the recommendation of sharing the costs for illegal dumping, San Joaquin County Community Development Department and the City of Stockton are working collaboratively to jointly offer additional "Free Dumpster Day" events to the community in and around the incorporated City of Stockton.*

**2021-2022 Grand Jury Discussion, Findings, and Recommendations**

While “Free Dumpster Day” events are beneficial, additional actions need to be taken to ensure that the costs of illegal dumping pickup are shared equitably.

**2021-2022 Grand Jury Finding F3:** Regional limitations prevent each jurisdiction from sharing the specific costs of cleanup outside of its respective boundaries. These limitations make a coordinated response difficult.

**2021-2022 Grand Jury Recommendation R3:** By September 30, 2022, the San Joaquin County Board of Supervisors develop and adopt a plan to equitably share costs for illegal dumping removal throughout the county.

**2020-2021 Grand Jury Recommendation R5:** By December 31, 2021, the Task Force establish a project timeline to launch the multi-media campaign.

***Agency Response:*** *Has been implemented. As described in the response to Finding F5, Free Dumpster Day events were advertised through social media platforms including Facebook. Flyers were also printed in English and Spanish, and were distributed door-to-door, and in community centers.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R6:** By December 31, 2021, the Task Force develop a complaint log and referral system to notify appropriate jurisdictions and to ensure complaints are resolved.

***Agency Response:*** *Has been implemented. See response to Finding F6.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R7:** By December 31, 2021, the Task Force establish funding sources and implement a program that will equitably distribute vouchers, waivers, and coupons to the community.

***Agency Response:*** *Requires further analysis. The County believes that vouchers, waivers, and coupons are distributed equitably to the community, but unfortunately, not all residents can utilize them. The County intends to continue to offer vouchers, waivers, and coupons, but additionally offer other ways to assist residents such as Free Dumpster Days and more equitable, effective, and responsive waste hauler contracts.*

**The 2021-2022 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 Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

### **Response Requirements**

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

The San Joaquin County Board of Supervisors shall respond to findings and recommendations from the 2021-2022 Grand Jury.

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

Honorable Michael D. Coughlan, 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 2020-2021 San Joaquin County Grand Jury



## San Joaquin County: *A Fragmented COVID-19 Response*

### Case #0120

#### Preface

This report contains the responses to the 2020-2021 San Joaquin County Grand Jury report regarding San Joaquin County. This report focuses on the 2020-2021 Grand Jury findings and recommendations and the San Joaquin County responses, which are presented verbatim in this report.

The 2021-2022 Grand Jury follow-up determinations are presented after the agency response to each recommendation.

**Discussions, findings, and recommendations from the 2020-2021 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2020-2021 Grand Jury investigated the County's overall capabilities, preparedness, and response to the effects of the COVID-19 pandemic. The investigation was initiated as a result of a presentation by County staff outlining their capabilities and response to this health crisis. Findings and recommendations were made regarding:

- the County's Public Health Service organizational structure,
- the development, testing and implementation of plans and procedures to address future public health emergencies,

- written clarification of policies for placement and utilization of personnel designated as disaster service workers and
- the development and implementation of written policies with definitive procedures requiring all County employees who may be called upon to perform disaster service work being trained annually on the County’s Emergency Operation Plan.

### **Method of Follow-Up Investigation**

The 2021-2022 Grand Jury reviewed the responses to the 2020-2021 Grand Jury report, *San Joaquin County: A Fragmented COVID-19 Response, Case #0120*, and documented the mandatory responses to the findings and recommendations.

These responses were then reviewed to determine:

- if the County’s responses were complete and comprehensible;
- if the County would implement the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

### **Glossary**

- **AAR/IP:** After Action Report and Improvement Plan.
- **CDC:** Federal Centers for Disease Control.
- **County:** San Joaquin County.
- **County Ordinance:** A law enacted by a municipal body such as a county that governs matters not already covered by State or Federal laws.
- **COVID-19:** Coronavirus disease.
- **DSW:** Disaster Service Worker.
- **Emergency Support Function Annexes (ESF):** Supports the (EOP) Emergency Operation Plan and provides specific information and direction, with a focus on responsibilities, tasks and operational actions. An annex should identify actions that not only ensure effective response but also aid in preparing for emergencies and disasters.
- **EOC:** Emergency Operation Center.
- **EOP:** Emergency Operations Plan.
- **ESF:** Emergency Support Function.
- **ICS:** Incident Command System.
- **MYTEP:** Multi-Year Training and Exercise Plan.
- **NIMS:** National Incident Management System.
- **OES:** Office of Emergency Services.
- **SEMS:** Standardized Emergency Management System.
- **Tabletop Exercise:** Discussion-based sessions where team members meet in an informal classroom setting to discuss their roles during an emergency and their responses to a particular emergency. A facilitator guides participants through a discussion of one or more scenarios.

## Summary of Responses and Grand Jury Conclusions

Respondent	2020-2021	Response	2021-2022 Grand Jury Conclusion		
	Rec#		Rec#	Due Date	Conclusion
San Joaquin County	R1.1	Will be Implemented			Implemented No further action
	R1.2	Partially Implemented			Implemented No further action
	R1.3	Will be Implemented	R1.1	September 30, 2022	Further action required
	R1.4	Will be Implemented	R1.2	October 31, 2022	Further action required
	R2.1	Will not be Implemented			No further action
	R3.1	Has been implemented			No further action
	R3.2	Has been implemented			No further action
	R3.3	Has been implemented			No further action
	R4.1	Requires further analysis	R2.1	November 1, 2022	Further action required
	R4.2	Requires further analysis	R2.2	December 1, 2022	Further action required

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

#### 1.0 Overall Lack of Coordination & Collaboration

**2020-2021 Grand Jury Finding F1.1:** A lack of full understanding and application of San Joaquin County's Emergency Operations Plan, and its Emergency Support Function Annexes, delayed a collaborative and coordinated response.

**Agency Response:** *Partially Agree. The County will identify additional opportunities to improve training, leadership, collaboration, and coordination in responding to emergencies.*

*While the EOP provides guidance on response to demanding emergency conditions, it does not supersede well-established protocols. The document is a high-level strategic framework and does not include response level operating instructions. The EOP does establish roles, responsibilities, and relationships facilitating multiagency and multijurisdictional coordination.*

*As part of the EOP (Part 2, page 130), the Emergency Support Function (ESF) Annexes identify the primary coordinating agency for each function. There are 15 - ESF Annexes*

*that focus on critical tasks, capabilities, and resources provided by emergency response agencies for the County throughout all phases of a major emergency or disaster. A majority of the updated ESF Annexes were not formally adopted by the Disaster Council until July 22, 2020, which was five months into the COVID-19 Emergency. The ESF Annexes may be found on the OES website <https://sigov.org/departments/oes/plans>. Each ESF Annex is drafted by the agency of primary responsibility, with input by their secondary supporting agencies. In the event of an emergency, each Annex clearly defines escalation pathways and procedures for requesting resources and seeking additional support from State Agencies.*

*The Office of Emergency Services activated the Emergency Operations Center (EOC) consistent with the EOP framework that is consistent with the Standardized Emergency Management System (SEMS) and the ESF-05 Management Annex. The EOC coordinated information sharing and activated the Joint Information Center.*

*The Public Health and Medical Emergency Support Functional Annex provides the framework for managing the public health and medical aspects of emergencies that exceed routine response capabilities. It outlines the roles and responsibilities of all organizations with authority. (ESF-08 Public Health and Medical)*

*The COVID-19 Pandemic has been an unprecedented emergency. Repeatedly new policies and programs were implemented at the State level, without guidelines or procedures to carry out the new programs, causing County response staff to quickly implement a new program from scratch. In addition, government funds were received several days prior to any guidance or policies that outlined the approved projects.*

**2020-2021 Grand Jury Finding F1.2:** The most critical departments operate independently of one another during the declaration of a Local Disaster or Public Health Emergency, making it difficult to coordinate and collaborate their response.

**Agency Response:** *Partially Agree. All staff in emergency response roles are required to have completed basic SEMS and Incident Command System (ICS) training. ICS is a standardized emergency management concept designed to provide an integrated organizational structure for managing emergencies and to enable a coordinated emergency response across jurisdictional boundaries. This training required for all levels from frontline staff to senior management clearly delineates the emergency organizational structure, which is also consistent with the EOP.*

*While most departments work independently for day-to-day work, the EOP outlines how departments coordinate response efforts through an emergency organizational structure without losing their statutory responsibilities. The coordination and collaboration framework is in place but not always followed.*

**2020-2021 Grand Jury Finding F1.3:** When Public Health Services took over management of the COVID-19 response, communication and coordination between departments failed, which delayed the process of curtailing the spread of the COVID-19 Virus.

**Agency Response:** *Partially Agree. Due to COVID-19 gathering protocols, all in person meetings were eliminated and many government staff teleworked. This created another*

*unprecedented issue for the EOC. While some methods were in place for webinars and conference calls, not all agencies or staff had access or experience in this method. This required additional modifications to the EOC operations, where key leadership EOC positions were filled virtually, creating coordination issues as well.*

*The various phases of the pandemic caused new direction and communication constantly, sometimes every few days, by way of the State and Center for Disease Control and Prevention (CDC). The dynamic of this pandemic and information changing rapidly would seem like information was not received timely or coordinated. The majority of the time this was out of the County's control, and methods for communicating would be altered to meet the needs of the current situation.*

**2020-2021 Grand Jury Recommendation R1.1:** By March 1, 2022, San Joaquin County train all Public Health Services, Emergency Medical Services Agency, and Office of Emergency Services staff on the overall coordination and application of San Joaquin County's Emergency Operations Plan, including its Emergency Support Function Annexes, and thereafter provide refresher training on an annual basis.

**Agency Response:** *Will be implemented. OES will resume training according to the Multi-Year Training and Exercise Plan (MYTEP) 2019- 2024. The Plan identifies organizational priorities including the development and maintenance of the overall preparedness capabilities required to facilitate an effective response to all hazards faced by San Joaquin County. The Grand Jury's recommendation is consistent with the priorities outlined in the current MYTEP 2019-2024:*

- 1. Increase overall SEMS/NIMS compliance throughout the County.*
- 2. Improve operational coordination and communications between responders and stakeholders.*
- 3. Improve the capability to provide adequate and necessary public information and warning before, during, and after an event.*
- 4. Improve plans and capabilities to provide mass care and shelter to disaster survivors.*

*An updated Plan will be developed by September 30, 2021.*

**Multi-Year Training and Exercise Plan (MYTEP) and Emergency Operations Plan (EOP) were updated and completed in October 2021. The EOP was approved by the Disaster Council department heads and the Board of Supervisors in January 2022.**

**The 2021-22 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.2:** By March 1, 2022, the Director of the Office of Emergency Services develop a written policy with procedures and practical application exercises, requiring annual testing of the overall coordination, effectiveness, and application of

San Joaquin County's Emergency Operations Plan, including its Emergency Support Function Annexes.

**Agency Response:** *Partially implemented.* Current training and operational requirements set forth under SEMS/ICS are identified in the EOP. Individual departments and agencies within the County have been vested with the responsibility to maintain internal training records. Additional EOP and ESF training will be implemented as noted in R1.1.

**A written policy with procedures requiring annual testing of San Joaquin County's Emergency Operations Plan was approved by the Board of Supervisors in January 2022.**

**The 2021-22 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.3:** By June 1, 2022, the San Joaquin County Board of Supervisors approve the Office of Emergency Services written policy with procedures and practical application exercises, requiring annual testing of the overall coordination, effectiveness, and application of San Joaquin County's Emergency Operations Plan, including its Emergency Support Function Annexes.

**Agency Response:** *Will be implemented.* A written policy with procedures will be developed, however may not be approved by the Board of Supervisors before June 1, 2022. It should be noted here that the County Disaster Council, as chaired by the Director of Emergency Services is empowered by County Ordinance (Title 4, Division 3, Chapter 1, 4-3003 & 4-3007) to review and approve emergency and mutual aid plans developed by the Director of Emergency Operations in cooperation with the Chiefs of Emergency Services.

*Once the policy and procedures are approved, the Office of Emergency Services will ensure the Grand Jury receives a copy.*

### **2021-2022 Grand Jury Discussion, Findings and Recommendations**

The Office of Emergency Services is working with the County Administrator to develop a written policy with procedures and practical application exercises to coordinate the future use of San Joaquin County's Emergency Operations Plan, but the process has been delayed due to the ongoing COVID-19 pandemic.

**2021-2022 Grand Jury Finding F1.1:** The development of a written policy with procedures and practical application exercises is in progress but not yet completed, leaving the County lacking in preparedness for the next health emergency.

**2021-2022 Grand Jury Recommendation F1.1:** By September 30, 2022, the San Joaquin County Board of Supervisors, in conjunction with the Office of Emergency Services, develop, adopt and implement a written policy with procedures and practical application exercises, requiring annual testing to assess the overall coordination, effectiveness and application of San Joaquin County's Emergency Operations Plan, including its Emergency Support Function Annexes.

**2020-2021 Grand Jury Recommendation R1.4:** By October 1, 2022, Office of Emergency Services conduct the first assessment of the overall coordination, effectiveness, and application of San Joaquin County's Emergency Operations Plan, and its Emergency Support Function Annexes using practical application exercises and report their findings and recommendations to the Board of Supervisors

**Agency Response:** *Will be implemented. The recommendation will be implemented but potentially not before October 1, 2022. While workshops, drills, tabletops, functional and full-scale exercises are typically the method for assessing the coordination and effectiveness of emergency plans, an After-Action Report and Improvement Plan (AAR/IP) is the final requirement for any exercise. The EOP identifies this requirement consistent with the Homeland Security Exercise and Evaluation Program, which provides tools to develop, conduct, and evaluate such exercises. The AAR/IP is a collaboration of all participants and identifies actions taken, necessary modifications to plans and procedures, training needs, and recovery activities to date. The EOP outlines that the completed AAR/IP will be distributed to County leadership and Department Heads within 90 days of the end of the event.*

*The MYTEP outlines the plan of action, and the AAR/IP documents strengths and weaknesses of the exercises.*

### 2021-2022 Grand Jury Discussion, Findings and Recommendations

The Office of Emergency Services is working with the County Administrator to develop a written policy with procedures and practical application exercises to coordinate the future use of San Joaquin County's Emergency Operations Plan and to develop an assessment process for this plan, but the process has been delayed due to the ongoing COVID-19 pandemic.

**2021-2022 Grand Jury Finding F1.2:** Once a written policy with procedures to coordinate the future use of San Joaquin County's Emergency Operations Plan is complete, it will be critical to run simulations to assess the plan's effectiveness in addressing future emergencies.

**2021-2022 Grand Jury Recommendation F1.2:** By October 31, 2022, The San Joaquin County Board of Supervisors direct the Office of Emergency Services to conduct the first assessment of the overall coordination, effectiveness and application of San Joaquin County's Emergency Operations Plan and its Emergency Support Function Annexes using practical application exercises and report their findings and recommendations to the Board of Supervisors.

## 2.0 Public Health Services Organizational Impediments

**2020-2021 Grand Jury Finding F2.1:** Requiring the Public Health Officer to report directly to the Director of Public Health Services impeded the Public Health Officer's ability to fulfill the statutory requirements of responding to the Public Health Emergency.

**Agency Response:** *Disagree. The Grand Jury report does not cite specific examples of the Health Officer not being able to fulfill her statutory responsibilities, and the County believes the Health Officer has received the full support of both the Health Care Services Director and the Director of Public Health.*

**2020-2021 Grand Jury Recommendation R2.1:** By March 1, 2022, the San Joaquin County Board of Supervisors approve an organizational structure wherein the Public Health Officer reports directly to the Director of Health Care Services Agency.

**Agency Response:** *Will not be implemented.*

The 2021-22 Grand Jury determined to take no further action.

## 3.0 Lack of Understanding and Use of County Disaster Workers

**2020-2021 Grand Jury Finding F3.1:** San Joaquin County does not have a clear policy or procedure that stipulates how Disaster Service Workers are deployed to emergency departments, and how they are recalled to their home departments. This caused personnel shortages and delayed the County's emergency response.

**Agency Response:** *Agree. County Administrative Manual 1903, Emergency Services outlines the responsibilities of the County and County employees in the instances of a declared disaster. While the policy is severely lacking in procedures, it does currently state all County employees are Disaster Service Workers (DSW).*

*The County Administrator, Human Resources, and Office of Emergency Services staff began formal collaboration on a new policy and procedure in January 2021, following feedback from the periodic Operational Area Assessments and subsequent quarterly After Action Reports, from the COVID-19 Pandemic emergency response.*

*The new administrative policy, "2591 - Disaster Service Worker Program" was adopted by the Board of Supervisors on July 27, 2021. It identifies the legal authority and provides a more detailed overview of the program. The policy clearly identifies how and when a DSW can be activated, outlines specific assignments they can hold if assigned to the EOC, or other activity, identifies the management of a DSW while activated, and outlines how they are deactivated or returned to their regular assignment.*

*It should be noted that hundreds of the County's DSWs are essential workers that have worked tirelessly in the office, at testing sites, vaccination sites, and other essential locations, throughout the COVID-19 emergency.*

**2020-2021 Grand Jury Finding F3.2:** Not all County employees receive training about their Disaster Service Workers responsibilities, causing confusion when an emergency is declared.

**Agency Response:** *Agree. Effective August 2021, the County has included training regarding the employee's role as a Disaster Service Worker in New Employee Orientation.*

**2020-2021 Grand Jury Recommendation R3.1:** By March 1, 2022, San Joaquin County Board of Supervisors develop, approve, and implement a written policy establishing an annual process to review the hiring, training, and gathering of a pool of Disaster Service Workers.

**Agency Response:** *Has been implemented. The County has an existing program in place that has been documented and is reviewed annually by OES and Human Resources. Every two years OES works with Human Resources to recruit staff specifically for DSW positions within the EOC. This group is intended to be the first responders in the event of a local emergency who would assist to train other DSWs if the local emergency extends beyond a two-week timeframe. This frequency helps to recruit newly hired staff, or fill vacancies left through attrition. The last recruitment was in April 2019.*

*Staff is provided a minimum of three training days annually to prepare for duties tasked to undertake:*

- 1. Orientation day (specific online training courses are provided that make DSWs current in SEMS/ICS).*
- 2. Formal day of training in the EOC.*
- 3. Another day for an exercise to test working during an emergency activation.*

**The 2021-22 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R3.2:** By March 1, 2022, San Joaquin County Board of Supervisors develop, approve, and implement a written policy detailing how Disaster Service Workers are assigned to other departments and released back to their home department.

**Agency Response:** *Has been implemented: On July 27, 2021, the Board of Supervisors approved updates to the County Administrative Manual, which addressed the recommendation.*

**The 2021-22 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R3.3:** By March 1, 2022, San Joaquin County Board of Supervisors develop, approve, and implement a written program to train all county employees on their responsibilities as Disaster Service Workers.

**Agency Response:** *Has been implemented: On July 27, 2021, the Board of Supervisors approved an update of the Disaster Service Worker Program - 2591 in the County Administrative Manual. This update includes Sections 2591.1 - Legal Authority, 2591.2 - Program Overview, 2591.3 - Disaster Service Worker Activation, 2591.4 - Disaster worker Assignments, and 2591.5 - Disaster Service Worker Deactivation.*

*Also, effective August 2021, the County has included training regarding the employee's role as a Disaster Service Worker in New Employee Orientation.*

**The 2021-22 Grand Jury determined to take no further action.**

#### **4.0 Inadequate Public Health Emergency Response Capabilities**

**2020-2021 Grand Jury Finding F4.1:** The lack of understanding of San Joaquin County's Emergency Operations Plan delayed a collaborative and coordinated response necessary to meet the requirements outlined in the Public Health Emergency Preparedness agreement.

**Agency Response:** *Partially agree. The County partially agrees with this finding, which identifies opportunities for improving leadership, collaboration, and coordination in responding to public health emergencies.*

**2020-2021 Grand Jury Recommendation R4.1:** By March 1, 2022, Health Care Services complete an operational audit to affirm that the requirements outlined within the Public Health Emergency Preparedness agreement are being met.

**Agency Response:** *Requires further analysis. This recommendation will not be implemented before March 1, 2022, and will be an item in the scope of the countywide review of the emergency response to be performed after the cessation of the current public health emergency.*

**2021-2022 Grand Jury Discussion, Findings and Recommendations**

The COVID-19 pandemic continues to delay a countywide review of the Emergency Response Plan.

**2021-2022 Grand Jury Finding F2.1:** Without a thorough review of San Joaquin County's Emergency Operations Plan, the County is unable to confirm that this plan adequately meets the requirements of the Public Health Emergency Preparedness agreement.

**The 2021-2022 Grand Jury's Recommendation R2.1:** By November 1, 2022, The San Joaquin County Board of Supervisors, in conjunction with Health Care Services, complete an operational audit to affirm that the requirements outlined within the Public Health Emergency Preparedness agreement are being met.

**2020-2021 Grand Jury Recommendation 4.2:** By April 30, 2022, Health Care Services present their findings to the Board of Supervisors.

**Agency Response:** *Requires further analysis. This recommendation will not be implemented before April 30, 2022, and will be an item in the scope of the countywide review of the emergency response to be performed after the cessation of the current public health emergency.*

**2021-2022 Grand Jury Discussion, Findings and Recommendations**

The COVID-19 pandemic is continuing to cause Health Care Services to postpone a countywide review of the Emergency Response Plan.

**2021-2022 Grand Jury Finding F2.2:** Completion of a countywide review of the Emergency Response Plan with findings presented to the San Joaquin County Board of Supervisors would allow for a more collaborative and coordinated response to future public health emergencies.

**2021-2022 Grand Jury Recommendation R2.2:** By December 1, 2022, The San Joaquin County Board of Supervisors, in conjunction with Health Care Services, complete and evaluate a countywide review of the Emergency Response Plan and report results to the Board.

**Disclaimer**

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

Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

### **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report. The San Joaquin County Board of Supervisors shall respond to the findings and recommendations from the 2021-22 Grand Jury.

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

Honorable Michael D. Coughlan, 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 2020-2021 San Joaquin County Grand Jury



## Independent Special Districts:

### Transparency “Not Found”

#### Case #0220

#### Preface

This report contains the responses to the 2020-2021 San Joaquin County Grand Jury report regarding Independent Special Districts, the San Joaquin Local Agency Formation Commission, and the Auditor-Controller and Information Systems Department of San Joaquin County. This report focuses on the 2020-2021 Grand Jury findings and recommendations and the responses, which are presented verbatim in this report.

The 2021-2022 Grand Jury follow-up determinations are presented after the agency response to each recommendation.

**Discussions, findings and recommendations from the 2021-2022 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2020-2021 Grand Jury investigated San Joaquin County's 102 independent special districts (ISD) and related County agencies in response to the lack of public access to dependable, complete and transparent information on these districts. Beginning in January 2020 SB 929 required all independent special districts in California to have websites containing specific information, including agendas, financial statements and links to the State Controller's Office. Districts are able to claim an exemption if they believe that developing a compatible website would be a hardship. Findings and recommendations were made in several areas:

- independent special district website content and development,
- compliance with California legislation, including SB 929 and SB 272,
- enhancement of County websites to collect and share information on all ISDs, and
- establishment of a prototype website for districts unable to develop their own sites.

## Method of Follow-Up Investigation

The 2021-2022 Grand Jury reviewed the responses to the 2020-2021 Grand Jury report, *Independent Special Districts: Transparency "Not Found"*, Case #0220, and documented the mandatory responses to the finding.

These responses were then reviewed to determine:

- if the agency or elected official's responses were complete and comprehensible;
- if the agency or elected official would implement the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

## Glossary

- **ACO:** Auditor-Controller's Office
- **County:** San Joaquin County
- **District:** San Joaquin County Independent Special District
- **GIS:** Graphical Information System
- **ISD:** Independent special district, a local government granted by state statutes to serve a community of people by delivering specialized services not provided by city or county
- **LAFCO:** Local Agency Formation Commission, "an independent regulatory commission created by the California Legislature to control the boundaries of cities and special districts." (*It's Time to Draw the Line: A Citizens Guide to LAFCO*, 6). All 58 counties have a LAFCO.
- **MOU:** Memorandum of Understanding, a document between at least two parties that explains the proposed agreement between them
- **SB 272:** California State Senate Bill 272: Public Records Act: Enterprise System Catalog

- **SB 929:** California State Senate Bill 929 Special districts: Internet Web sites
- **SJ-IS:** San Joaquin County Information Systems Division
- **State:** State of California

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

### **1.0 All Independent Special Districts**

**2020-2021 Grand Jury Finding F1.1:** No website was found, negatively impacting public transparency, and is not compliant with SB 929.

**2020-2021 Grand Jury Finding F1.2:** Not all elements of SB 929 compliance are present on the district website, negatively impacting public transparency.

**2020-2021 Grand Jury Finding F1.3:** Imprecise links to the State Controller’s Office website for financial transactions and board compensation make the website harder to use.

**2020-2021 Grand Jury Finding F1.4:** The financial transactions on the State Controller’s Office website do not provide an easily understood picture of the district’s finances.

**2020-2021 Grand Jury Finding F1.5:** The San Joaquin County Auditor-Controller’s Office has audits and financial summaries for most districts that provide a more complete picture of the finances.

**2020-2021 Grand Jury Finding F1.6:** The district could achieve higher levels of functionality and security on its website by leveraging the IS services of the county or other entity that has focused software for special districts.

**2020-2021 Grand Jury Recommendation R1.1:** By March 31, 2022, comply with SB 929. Provide proof of exemption when relevant.

**2020-2021 Grand Jury Recommendation R1.2:** By March 31, 2022, contact the San Joaquin County’s Information Systems Division (SJ-IS) to discuss the possible benefits of shared services including cyber security and website development.

**2020-2021 Grand Jury Recommendation R1.3:** By March 31, 2022, provide a link to the most recent audit on the district website.

**2020-2021 Grand Jury Recommendation R1.4:** By November 30, 2021, confirm the accuracy of the information for the district in Appendix A – Independent Special Districts and provide corrections to the Grand Jury

**Eighty-four districts provided acceptable responses to the Findings and Recommendations. Four of the remaining 18 districts either met the requirements of the recommendations or are single-owner districts, and no additional follow-up will be requested. The remaining 14 districts are listed in the response requirement section of this report.**

### 2021-2022 Grand Jury Discussion, Findings and Recommendations

Not all special districts in San Joaquin County have public websites as required by SB 929. State legislation, including SB 929 and SB 272, mandates specific content required on an ISD website. Working with a provider that specializes in this type of website development can improve both usability and compliance with regulations.

**2021-2022 Grand Jury Finding F1.1:** The District lacks a public website which limits transparency and makes it difficult for constituents to review agendas, financials and other pertinent documents.

**2021-2022 Grand Jury Recommendation R1.1:** By November 30, 2022, the District develop and launch a website that is compliant with all State guidelines, including SB 929 and SB 272, or provide proof of exemption.

## 2.0 LAFCO

**2020-2021 Grand Jury Finding F2.1:** There is no easy access from the LAFCO website to the websites of independent special districts, making it difficult for the public to find information about those districts.

**Agency Response:** *Agree. Currently, the LAFCO website provides a mailing list of independent special districts. The independent special district mailing list provides the name of the district, the municipal service it provides, address, contact information including phone number and email address but does not provide a website address for districts that currently have a website.*

**2020-2021 Grand Jury Finding F2.2:** There is no comprehensive central directory from which the public can access information on their independent special districts, making such information difficult to find.

**Agency Response:** *Agree. The above special district information on the LAFCO website described above does not provide appropriate links that would lead to further information about the special district. LAFCO will work with the County Information Systems Department to create a comprehensive central directory.*

**2020-2021 Grand Jury Finding F2.3:** The public would benefit from the addition of the following to the LAFCO website:

- District website link;
- Link to latest Municipal Service Review;
- Link to latest Sphere of influence study;
- Link to the district map (usually found on the county GIS);
- Date of agency formation; and
- Links to information about each Independent Special District as available from county departments.

**Agency Response:** *Agree. Some of the above information is available on the LAFCO website, however, is not provided in a comprehensive format easily accessible for the public. LAFCO will work with the County Information Systems Department to create an “Independent Special Districts” webpage with appropriate links to access the information listed above.*

**2020-2021 Grand Jury Recommendation R2.1:** By March 31, 2022, LAFCO work with the San Joaquin County Information Systems Division (SJ-IS) to create a webpage on the LAFCO website that lists within the boundaries of the county and provide a link to a standard summary page for each district.

**Agency Response:** *Agree. By March 31, 2022, LAFCO will work with the San Joaquin Information Systems Division to create a web page on the LAFCO website that list all the independent special districts within the boundaries of the county and provide a link to a standard summary page for each district.*

**2020-2021 Grand Jury Recommendation R2.2:** By March 31, 2022, on the summary webpage for each district, LAFCO provide at least the following information:

- A link to the independent special district’s website;
- A link to a map of the district’s boundaries;
- A link to all past Municipal Service Reviews that are available online;
- A link to the most recent Sphere of the Influence study; and
- Formation date and description of the district.

**Agency Response:** *Agree. By March 31, 2022, LAFCO will create a summary webpage for each district consisting of all information recommended above for independent and dependent districts.*

**2020-2021 Grand Jury Recommendation R2.3:** By March 31, 2022, LAFCO work with the county on this summary page to also include summary information from any county department which has information on the referenced independent special district. This would include such as recent audits from the Auditor-Controller’s Office, current elections from the Registrar of Voters, and the board of Supervisors’ special district board member appointments from the Clerk of the Board.

**Agency Response:** *Agree. By March 31, 2022, in collaboration with county departments that have information on the special districts, LAFCO will include in its standard summary page for each independent special districts, LAFCO will include in its standard summary page for each independent special district, the recent audits, current election information, and board member appointments when provided by those county departments.*

### **2021-2022 Grand Jury Discussion, Findings and Recommendations**

The San Joaquin County Local Agency Formation Commission (LAFCO) website has a listing of Independent Special Districts which was last updated in July 2020.

**2021-2022 Grand Jury Finding F2.1:** The Local Agency Formation Commission website contains limited information on San Joaquin County's independent special districts which has not been updated since July 2020. The absence of a centralized and detailed database with links to district information makes it difficult for constituents to access information specific to their respective districts.

**2021-2022 Grand Jury Recommendation R2.1:** By December 31, 2022, LAFCO work with the San Joaquin County Information Systems Division to create a webpage on the LAFCO website that lists all independent special districts within San Joaquin County and contains links to a summary page for each district that includes the district's boundary maps, municipal service reviews and most recent sphere of influence study.

**2021-2022 Grand Jury Recommendation R2.2:** By December 31, 2022, LAFCO, in conjunction with the San Joaquin County Information Systems Division, County Auditor-Controller, Registrar of Voters, and the Clerk of the Board of Supervisors, add links to additional district information, including audits, election information and special district board member appointments, to each district's summary page.

### **3.0 San Joaquin Board of Supervisors**

**F3.1** There is no easy access from the county website to the websites of independent special districts, making it difficult for the public to find information about those districts.

**F3.2** County departments have information on independent special districts that is difficult for the public to access.

**The above findings duplicated F2.1 and F2.2, which were responded to by LAFCO. The San Joaquin County Board of Supervisors did not provide additional responses to those provided by LAFCO.**

### **4.0 San Joaquin County Auditor-Controller's Office**

**2020-2021 Grand Jury Finding F4.1:** The independent special district audits, on file with the Auditor-Controller's Office, are not easily accessible to the public.

**Agency Response:**

**2020-2021 Grand Jury Finding F4.2:** The brief financial summaries derived from the audits by the Auditor-Controller's Office are not easily accessible to the public.

**2020-2021 Grand Jury Finding F4.3:** The Auditor-Controller's Office financial summaries provide a clearer picture of a district's finances than that which is found on the State Controller's Office site.

**Agency Response:**

**San Joaquin County Auditor-Controller's Office did not provide responses to the above findings.**

**2020-2021 Grand Jury Recommendation R4.1:** By September 30, 2021, the Auditor-Controller's Office require all future independent special district audits to be submitted in an electronic form.

**Agency Response:** *The Auditor-Controller's Office (ACO) concurs with the recommendation. The ACO will immediately notify all independent districts of the new requirements to submit all future audits in an electronic form.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R4.2:** By December 31, 2021, make all electronic independent special districts audits going forward available on the Auditor-Controller's Office website.

**Agency Response:** *The ACO concurs with the recommendation. The ACO will work with the County's Information Systems Division to make all electronic independent special districts audits received available on the ACO website going forward.*

**2020-2021 Grand Jury Recommendation R4.3:** By March 31, 2022, the Auditor-Controller's Office provide the most recent independent special district audit links to LAFCO for their new independent special district summary webpages.

**Agency Response:** *The AOC concurs with the recommendation The AOC will work with the County's Information Systems Division and LAFCO provide the most recent independent special district audit links to LAFCO for their new independent special district summary webpages.*

**2021-2022 Grand Jury Discussion, Findings and Recommendations**

The Auditor-Controller's website contains no information regarding independent special district audits.

**2021-2022 Grand Jury Finding F3.1:** San Joaquin County Auditor-Controller's Office receives detailed audits from independent special districts but does not make these audits available to the public via the Auditor-Controller's website, denying constituents convenient access to this information.

**2021-2022 Grand Jury Recommendation R3.1:** By October 31, 2022, The San Joaquin County Auditor-Controller post all electronic independent special districts' audits on the Auditor-Controller's website.

**2021-2022 Grand Jury Recommendation R3.2:** By December 31, 2022, the Auditor-Controller's Office provide the most recent independent special district audit links to LAFCO for their independent special district summary webpages.

**5.0 The Information Systems Division**

**2020-2021 Grand Jury Finding F5.1:** The county has a modern, professionally run Information Systems Division with many quality services that can be shared with independent special districts.

**Agency Response:** *Agree*

**2020-2021 Grand Jury Finding F5.2:** The county's robust implementation of its cyber strategy would be difficult for most independent special districts to duplicate.

**Agency Response:** *Agree*

**2020-2021 Grand Jury Recommendation R5.1:** By March 31, 2022, the San Joaquin County Information Systems Division create a catalog of available services, benefits, costs, and sample MOUs, and distribute to all independent special districts.

**Agency Response:** *This recommendation will be implemented.*

**The San Joaquin County Information Systems Division created a catalog of available services, benefits, costs and sample MOUs and distributed this to all independent special districts in the County during April 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R5.2:** By March 31, 2022, the San Joaquin County information Systems Division, in conjunction with at least one independent special district, create a working, model website that can be maintained and expanded by the independent special district.

**Agency Response:** *This recommendation will be implemented.*

**The San Joaquin County Information Systems Division partnered with the Tracy Cemetery Special District and created a demonstration website in April 2022.**

**The 2021-2022 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 Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

### **Response Requirements**

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

The Board of Directors of each of the following special districts is required to respond to F1.1, F1.2 and R1.1:

- Boggs Tract Fire Department
- California Irrigation District
- Country Club Sanitation District
- Dos Reis Storm Water District
- Eastside Rural Fire District
- Lincoln Rural Fire District
- Reclamation District 38-Staten Island
- Reclamation District 524-Middle Roberts Island
- Reclamation District 2062-Stewart Tract
- Reclamation District 2074-Sargent-Barnhart Tract
- Reclamation District 2094-Walthall
- Reclamation District 2096-Wetherbee Lake
- Reclamation District 2114-Rio Blanco Tract and
- Tuxedo-Country Club Rural Fire District.

The San Joaquin County Local Agency Formation Commission is required to respond to Finding F2.1 and Recommendations R2.1 and R2.2.

The San Joaquin County Auditor-Controller is required to respond within 60 days to Findings F3.1 and Recommendations R3.1 and R3.2.

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

Honorable Michael D. Coughlan, 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 2020-2021 San Joaquin County Grand Jury



## City of Manteca

### A City Government in Turmoil

#### Case #0320

#### Preface

This report contains the responses to the 2020-2021 San Joaquin County Civil Grand Jury report regarding [report title]. This follow-up report focuses on the 2020-2021 Grand Jury findings and recommendations, and the City of Manteca responses which are presented verbatim in this report.

The 2021-2022 Grand Jury follow-up determinations are presented after the agency's responses to each recommendation.

**Discussions, findings, and recommendations from the 2020-2021 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2020-2021 Grand Jury investigated turmoil within the City of Manteca government. The investigation was initiated as a result of local media reports and complaints received from

concerned residents. Findings and recommendations were made in the areas of employment practices, city management and financial operations including the following topics:

- Employee/Council training
- Revised policy on promotions
- Succession planning
- Administrative Leave and Employee Termination Policy
- Grievance procedure
- Council interference with management
- Hiring/City Manager qualifications.

### **Method of Follow-Up Investigation**

The 2021-2022 Grand Jury reviewed the responses to the 2020-2021 Grand Jury report, *City of Manteca: A City Government in Turmoil, Case #0320*, and documented the mandatory responses to the findings and recommendations.

These responses were then reviewed to determine:

- if the City's responses were complete and comprehensible
- if the City would implement the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

### **Glossary**

- **City:** City of Manteca
- **Council:** Manteca City Council
- **Rec#:** Recommendation number
- **Position Control:** The process of tracking and maintaining personnel actions so that department budgets are monitored, ensuring there are sufficient funds to cover on-going employee salaries

## Summary of Responses and Grand Jury Conclusions

Respondent	2020-2021	Response	2021-2022 Grand Jury Conclusion		
	Rec#		Rec#	Due Date	Conclusion
City of Manteca	R1.1	Will be Implemented			Implemented No further action
	R1.2.1	Will be Implemented			Implemented No further action
	R1.2.2	Will be Implemented			Implemented No further action
	R1.3.1	Will be Implemented			Implemented No further action
	R1.4.1	Will be Implemented			Implemented No further action
	R1.4.2	Implemented			No further action
	R1.5.1	Will be Implemented			Implemented No further action
	R1.5.2	Will be Implemented			Implemented No further action
	R1.6.1	Implemented			No further action
	R1.6.2	Will not be implemented			No further action
	R1.6.3	Will be Implemented			Implemented No further action
	R1.7.1	Will not be implemented			No further action
	R2.1	Requires analysis			No further action
	R2.2.1	Will not be implemented			No further action
	R2.3.1	Implemented			No further action
	R2.3.2	Implemented			No further action
	R3.1	Will be Implemented			Implemented No further action
	R3.2	Will not be implemented			No further action
	R3.3	Implemented			No further action

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

### 1.0 Inconsistent Employment Practices

#### 1.1 Hiring

**2020-2021 Grand Jury Finding F 1.1:** The city manager and assistant manager positions were filled without the benefit of an established recruitment process. This caused community-wide turmoil while they struggled to learn the job.

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

**2020-2021 Grand Jury Recommendation R1.1:** By December 31, 2021, develop, adopt, and implement effective written recruitment policies and procedures, and strictly adhere to them for all executive hiring.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.1. The City also wishes to note that it did conduct a national search with a well-regarded search firm beginning in May 2021 to recruit and hire its next City Manager.*

**Recruitment policies and procedures were implemented on March 15, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

#### 1.2 Insufficient Training and Development

**2020-2021 Grand Jury Finding F1.2.1:** Some managers were not capable of providing necessary training for staff, particularly within the finance department, which resulted in poor decision making.

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

**2020-2021 Grand Jury Finding F1.2.2:** The City has no policy for employee training or professional development; therefore, employees lack the necessary skills to maintain efficient operations.

**Agency Response:** *The City disagrees partially with this finding; while the City does concede that certain departments may have not formal policies as described above, other departments (for instance, police and fire) do have written, approved, and formalized policies for training and professional development.*

**2020-2021 Grand Jury Recommendation R1.2.1:** By March 31, 2022, develop and implement a written policy requiring department heads to regularly evaluate staff performance, ensuring they have the knowledge and skillset to perform the job assignments, and provide training when necessary.

**Agency Response:** *This recommendation has not been implemented, but will be implemented in the near future, consistent with R1.2.1, to the extent that certain departments lack these memorialized policies.*

**The Employee and Performance Review policy was implemented on March 15, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.2.2:** By March 31, 2022, develop and implement a written policy requiring staff be trained or cross-trained, ensuring work can be covered during temporary absences.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.2.2, to the extent that certain departments lack these memorialized policies.*

**A cross-training program was implemented on March 15, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

### 1.3 Reorganization/Position Control

**2020-2021 Grand Jury Finding F1.3.1:** The city council approved the reorganization without the benefit of a detailed position control schedule, causing confusion and failure of the reorganization plan.

**Agency Response:** *The City disagrees partially with this finding; while certain aspects of the reorganization plan may have caused confusion and/or lacked a detailed position control schedule, this is not universal. The City believes that select language of this finding is too all encompassing, and requires caveats.*

**2020-2021 Grand Jury Recommendation R1.3.1:** By December 31, 2021, develop and implement a policy that requires a detailed position control schedule be presented to the city council for approval, prior to the execution of any reorganization.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.3.1.*

**A personnel rules and regulations policy regarding classification and reorganization was implemented on December 15, 2021.**

**The 2021-2022 Grand Jury determined to take no further action.**

#### 1.4 Inconsistent Promotion Policy

**2020-2021 Grand Jury Finding F1.4.1:** The City of Manteca has a history of unfair promotional practices which caused low morale and the loss of employees.

**Agency Response:** *The City disagrees partially with this finding; while the city does concede that certain promotions may have been consistent with the finding in F1.4.1 (in particular, as noted in the Grand Jury Report, the hiring of the city manager and assistant city manager discussed therein), other appointments were both fair and appropriate. The city believes the language of this finding is too all-encompassing, and requires caveats.*

**2020-2021 Grand Jury Finding F1.4.2:** Employees were ill-prepared for promotions, leading to inexperienced and unqualified employees being promoted.

**Agency Response:** *The City disagrees partially with this finding; while the City does concede that certain promotions may have been consistent with the finding in F1.4.2 (in particular, as noted in the Grand Jury Report, the hiring of the city manager and assistant city manager discussed therein), other appointments were both fair and appropriate. The City believes the language of this finding is too all-encompassing, and requires caveats.*

**2020-2021 Grand Jury Recommendation R1.4.1:** By March 31, 2022, develop and implement a revised written policy that ensures promotions are based on qualifications.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.4.1.*

**A promotion policy was implemented on March 31, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.4.2:** By March 31, 2022, develop and implement an employee development program to assist candidates in acquiring education and/or training to help them gain skills that could lead to promotions.

**Agency Response:** *This recommendation has been implemented; the City notes that the budget approved for Fiscal Year 2021-2022 includes \$50,000.00 total for employees for tuition reimbursement.*

**A tuition assistance program has been in place and funded for several years.**

**The 2021-2022 Grand Jury determined to take no further action.**

## 1.5 Lack of Formal Succession Planning

**2020-2021 Grand Jury Finding F1.5.1:** The city has no succession plan to fill management positions with qualified candidates. Without a transitional process, there was a delay in preparation and completion of important reports, including the annual audit.

**Agency Response:** *The City agrees with this finding. Following its nationwide search for a new City Manager, the City will work with City management to develop appropriate succession plans.*

**2020-2021 Grand Jury Recommendation R1.5.1:** By December 31, 2021, develop and implement a succession plan for all management positions.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.5.1, provided, however, the City will need additional time to develop this plan, and anticipates its completion on or before March 31, 2022.*

**A succession plan was implemented on March 2, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.5.2:** By March 31, 2022, department heads develop and implement a plan that ensures employees are sufficiently trained or cross-trained in multiple positions so that critical vacant positions can be filled with qualified personnel.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.5.2.*

**The Job Rotation/Cross-Training Program was implemented on March 15, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

## 1.6 Inconsistent Administrative Leave and Employee Termination Process

**2020-2021 Grand Jury Finding F1.6.1:** The policy for placing an employee on administrative leave, also called suspension, is ambiguous and subject to misinterpretation, leading to unfair practices.

**Agency Response:** *The City disagrees partially with this finding; the City cannot discuss and/or opine publicly on confidential, personnel matters. Without knowing the specific instances considered by the Grand Jury, the City cannot fully concede to or acknowledge this finding. Moreover, each case where an employee is placed on administrative leave is done so on a case-by-case basis, based on the specific facts of that case.*

**2020-2021 Grand Jury Finding F1.6.2:** Investigations conducted by outside law firms are expensive and costly to taxpayers.

**Agency Response:** *The City disagrees with this finding. The City has a duty to investigate select categories of misconduct based on federal and/or state law, and/or its own personnel rules and policies. Moreover, the City takes its duty to investigate these matters very seriously. Summarily labeling all investigations conducted by outside law firms as "expensive and costly to taxpayers" does not take into account the specific facts of that particular disciplinary matter and why the decision was made to investigate the matter using an outside law firm. While the City does recognize there have been multiple wrongful termination claims in the recent past, outside law firms are needed at times to ensure a fair, efficient, just, and impartial process for all involved parties. Significantly, despite multiple claims, very few wrongful termination lawsuits were actually filed. The City believes part of the reason for that is that some of the outside investigations led to sustained findings, which negated possible lawsuits and permitted claims to be resolved more quickly and favorably to the City. Furthermore, the City anticipates that costs related to outside law firms shall diminish moving forward since the City opened its first in-house City Attorney's Office on February 1, 2021.*

**2020-2021 Grand Jury Recommendation R1.6.1:** By December 31, 2021, develop and implement a written administrative leave policy that is clear and concise.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.6.1; provided, however, the city also recognizes that each matter must be analyzed on a case-by-case basis. Furthermore, on all administrative leave decisions made moving forward, the City shall get sign-off from the City Attorney's Office.*

**An administrative leave policy was implemented on December 15, 2021.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.6.2:** By March 31, 2022, develop and implement a written reciprocal agreement for an investigating team from a neighboring city or cities, to conduct internal investigations (similar to law enforcement agencies utilizing investigative staff from a neighboring community or department).

**Agency Response:** *This recommendation will not be implemented because it is not warranted and it is not reasonable. Many cities do not have trained investigators and/or an abundance of individuals who are approved to review and/or handle confidential, personnel matters. In addition, certain personnel investigations require an outside investigator to be licensed. Furthermore, investigations conducted by neighboring cities could be poorly implemented, and may cause confusion and turmoil for all parties. Finally, in the interest of justice and due process, investigations should be conducted in a timely manner. If a neighboring city is unavailable for several months, this process is no*

*longer a fair process for both the complainants and the subjects. Instead, the City has recently trained investigators in its Employee Services & Engagement department, thus it can provide trained, in-house investigators for purposes of an investigation. In addition, the City will utilize its newly formed City Attorney's Office to conduct select, internal investigations, as set out in further detail below.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R1.6.3:** By March 31, 2022, develop and implement a policy for employing external resources, when necessary.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R1.6.3.*

**A policy on employing external resources was implemented on March 15, 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

## **1.7 Flawed Grievance Procedure**

**2020-2021 Grand Jury Finding F1.7.1:** Employees were afraid that if they complained they would become the subject of harassment and retaliation by management, causing them not to avail themselves of the existing grievance procedure, resulting in increased denigration of morale.

**Agency Response:** *The City disagrees partially with this finding; while the City cannot discuss specific, confidential personnel matters, the City cannot confirm or deny that certain employees may have been afraid to formally complain, consistent with F1.7.1. The City, however, believes the language of this finding is too all-encompassing, and requires caveats. Importantly, the City has available a multitude of mechanisms for reporting misconduct, including those set forth in its Personnel Rules and Regulations and Policies and Procedures, which include, e.g., a Discrimination and Harassment Policy, Domestic Violence Policy, Gifts and Gratuities Policy, Internal Complaint and Grievance Policy, Whistleblower Policy, Workplace Civility Respect Policy, Workplace Violence Policy, and a general Workplace Wrongdoing Policy. See <https://www.ci.manteca.ca.us/HWPages/Policies-And-Procedures.asp>. Each of these policies encourages the reporting of internal complaints and issues and provides vehicles for employees to raise and report concerns, which the City takes seriously and investigates. The City will continue to make employees aware of these avenues for submitting complaints and encourage employees to come to their supervisor, to Employee Services & Engagement Department ("HR"), and/or elsewhere as may be appropriate.*

**2020-2021 Grand Jury Finding F1.7.2:** Complaints were not addressed, and no action was taken until the large volume of complaints could no longer be ignored, resulting in frustration and low morale.

**Agency Response:** *The City disagrees with this finding; while the City cannot discuss specific, confidential personnel matters, the City notes that it abided by all laws and policies in response to complaints. In addition, the City believes the language of this finding is too all-encompassing, and requires caveats.*

**2020-2021 Grand Jury Recommendation R1.7.1:** By March 31, 2022, revise the current grievance procedure to include a reciprocal program, which would allow grievances to be reviewed by another city 's administrators, assuring impartiality.

**Agency Response:** *This recommendation will not be implemented because it is not warranted and it is not reasonable. Many cities do not have trained investigators and/or an abundance of individuals who are approved to review and/or handle confidential, personnel matters. Furthermore, investigations conducted by neighboring cities could be poorly implemented and may cause confusion and turmoil for all parties. Finally, in the interest of justice and due process, investigations should be conducted in a timely manner. If a neighboring city is unavailable for several months, this process is no longer a fair process for both the complainants and the subjects.*

*Instead, the City will allow employee complainants to bring complaints either to the Employee Services & Engagement Department ("HR"), or to the newly formed City Attorney's Office. Should an employee bring a complaint to the City Attorney's Office, the City Attorney's Office will review the complaint and determine one (1) of three (3) options: 1) send the complaint to HR for review and investigation; 2) review the complaint in the City Attorney's Office; or 3) refer the matter outside of the City for investigation.*

**The 2021-2022 Grand Jury determined to take no further action.**

## **2.0 Ineffectual City Management**

### **2.1 The Team Approach**

**2020-2021 Grand Jury Finding F2.1:** A series of mistakes were made that more experienced managers could have avoided, costing the taxpayers undue financial expense.

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

**2020-2021 Grand Jury Finding F2.2:** The team approach was inefficient, duplicating many efforts and requiring constant conferences to update other members of management. This cost unnecessary time and money.

**Agency Response:** *The City disagrees partially with this finding; while the City does concede that previous city management was not always efficient, and some inefficiency did lead to repetitive time and cost money, the City believes that this approach can be efficient under the right city management team.*

**2020-2021 Grand Jury Recommendation R2.1:** By December 31, 2021, the city council review the structure of the city manager 's office to ascertain a management approach that is most efficient and cost-effective.

**Agency Response:** *This requires further analysis; again, the City believes that with a different city management team in place, the team approach may work, and could be more efficient and cost effective. Moreover, the City wishes to wait, observe, and review the performance of its incoming City Manager after six (6) months, and determine whether or not this recommendation will be implemented.*

**The Manteca City Manager resigned in February 2022; an Interim City Manager has been appointed to serve until December 2022. The recommended review will occur after a permanent City Manager is selected**

**The 2021-2022 Grand Jury determined to take no further action.**

## 2.2 Qualifications of City Manager

**2020-2021 Grand Jury Finding F2.2.1:** There currently is no explicit requirement for previous city management experience for the position of city manager, leading to the hiring of inexperienced and unqualified personnel.

**Agency Response:** *The City disagrees partially with this finding; while the City does agree with the finding of the Grand Jury that the lack of an updated policy may have led to the hiring of an inexperienced and/or unqualified city manager, the City does not believe "previous city management experience" alone should be the lone and/or dispositive requirement for the position. For instance, executive experience at the county level, special districts level, an up and coming "assistant city manager", and/or other executive level experience may also serve as the experience needed to be successful in this position. The City does not believe it should limit its candidate pool in this regard.*

**2020-2021 Grand Jury Recommendation R2.2.1:** By December 31, 2022, develop and adopt new minimum qualifications in the city manager's job description, to include previous city management experience, city municipal finance experience, and capital improvement project management.

**Agency Response:** *This recommendation will not be implemented because it is not warranted and it is not reasonable. Again, while the City does agree with the finding of the Grand Jury that the lack of an updated policy may have led to the hiring of an inexperienced and/or unqualified city manager, mandating the three (3) areas noted above would limit applicants and would likely not result in the best individual to lead the*

*City. Instead, the City will update the city manager qualifications by December 2022 (or sooner) to include relevant executive experience, mandate that the city manager vacancy only be filled following (at a minimum) a statewide search, and at the very least, an understanding and/or knowledge of the areas noted above (but not a requirement).*

**The 2021-2022 Grand Jury determined to take no further action.**

### **2.3 City Council Interference with Management**

**2020-2021 Grand Jury Finding F2.3.1:** The mayor and some councilmembers violated Municipal Code section 2.08.080. This circumvented the public 's right to have city business conducted in public, and caused confusion among staff, subverting the required chain of command.

**Agency Response:** *The City disagrees partially with this finding; while there were instances where the mayor and select councilmembers may have reached out directly to staff (and such actions did cause confusion and/or subvert the chain of command), it is unclear if this ultimately resulted in a violation of the Municipal Code or violated the Brown Act. Indeed, the Grand Jury Report does not state that the City, at the direction of the Mayor or City Council, implemented plans and/or policies and did not bring them to the public for consideration. While the City does concede that borderline impermissible direction to and/or requests of City staff may have been made by the mayor and select councilmembers to City staff, those facts alone do not amount to a violation of the Municipal Code and/or the Brown Act.*

**2020-2021 Grand Jury Recommendation R2.3.1:** By March 31, 2022, develop, adopt, and implement a written censure policy for municipal code violations by the mayor and city councilmembers.

**Agency Response:** *This recommendation has been implemented, as the City Council unanimously approved a censure policy in April 2021. Furthermore, the City Council has also approved an Ethics Policy that applies to all of the councilmembers and the mayor. In addition, on August 2, 2021, the City Council adopted a policy regarding the direction of staff by the City Council.*

**A censure policy was implemented on April 6, 2021.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R2.3.2:** By March 31, 2022, include a review of Municipal Code section 2.08.080 during the annual ethics training for the mayor and councilmembers.

**Agency Response:** *This recommendation has been implemented, consistent with R2.3.2. The City Council has also implemented a Council policy concerning the direction of City staff and staff time, which was passed by the City Council on August 2, 2021, at the*

conclusion of the City Council Retreat. At the August 2, 2021 City Council Retreat, a review and presentation of Municipal Code section 2.08.080 took place.

**The 2021-2022 Grand Jury determined to take no further action.**

### 3.0 Faulty Financial Operations

**2020-2021 Grand Jury Finding F3.1:** Councilmembers asked few questions of staff about the city's financial condition or the fiscal impacts of major expenditures they were being asked to approve. This caused ill-informed decision making.

**Agency Response:** *The City disagrees partially with this finding; while the City concedes there may have been instances where the City Council could have inquired more and/or requested follow-up from previous city management, the City believes that the City Council as a whole has in fact asked appropriate and sufficient questions of staff, especially once some of the issues concerning the financial condition of the City came to light. Moreover, the current City Council did in fact follow-up with and inquire of staff constantly following the financial disclosures that were revealed in the Fall of 2020.*

**2020-2021 Grand Jury Finding F3.2:** Major projects were presented to councilmembers with inadequate time to review the complex issues involved. This caused ill-informed decision making.

**Agency Response:** *The City disagrees partially with this finding; while the city concedes there may have been instances where the City Council should have been provided more time to review major projects and items should not have been presented last minute, the city does not believe this was universal for all major projects. The city believes the language of this finding is too all encompassing, and requires caveats.*

**2020-2021 Grand Jury Finding F3.3** — The city council's approval of loans between restricted funds, without receiving any information or documents on the repayment requirements or fiscal impacts, created an unclear picture of the actual fund balances in the various accounts.

**Agency Response:** *The City disagrees partially with this finding; while the City concedes there may have been instances where the City Council should have received more information, without knowing the specific instances, the City cannot agree to this finding in totality. The city believes the language of this finding is too all encompassing, and requires caveats.*

**2020-2021 Grand Jury Recommendation R3.1** — Beginning October 1, 2021, the city council conduct public study sessions, at least quarterly, to receive and discuss complex financial issues. These sessions include, but not be limited to, the city 's financial condition, long-term impacts of past, current, and proposed fiscal obligations of the city, major capital outlays, and employee contracts.

**Agency Response:** *This recommendation has not yet been implemented, but will be implemented in the near future, consistent with R3.1; provided, however, some of these recommendations and/or responsibilities may be sent to and/or overseen by the City Council's recently formed Finance Ad Hoc Committee, which was established by the City Council in June 2021.*

**The Finance Ad Hoc Committee met in August 2021 and February 2022.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R3.2** — By October 1, 2021, develop, adopt, and implement a policy which requires information regarding major new or existing complex projects or programs, including a detailed financial analysis, be provided to the city council and the public at least ten days in advance of the item being considered for approval at a city council meeting.

**Agency Response:** *This recommendation will not be implemented because it is not warranted and it is not reasonable. The City abides by and follows the Brown Act, which controls when items should be posted to the public. Instead of setting a ten (10) day posting period, the City will endeavor to work with the Finance Ad Hoc Committee to conduct research with staff and/or meetings, and for City staff and/or the Finance Ad Hoc Committee to update the City Council on a quarterly basis at a minimum, and try to focus on major projects and/or the areas noted above by the Grand Jury.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-2021 Grand Jury Recommendation R3.3** — By October 1, 2021, all proposals for the city council authorizing inter-fund loans be accompanied by loan documents detailing obligations of the loan by appropriate department heads or entities, including an analysis of impacts on the city's overall financial condition.

**Agency Response:** *This recommendation has been implemented, as the Finance Department has taken steps to include these documents as outlined herein.*

**The City Council approved guidelines for inter-fund transfers and loans in June 2021.**

**The 2021-2022 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 Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).



# Follow-up Report to the 2020-2021 San Joaquin County Grand Jury



## Stockton Unified School District Board of Education

### *Dissention, Dismay, and Disarray*

#### Case #0620

#### Preface

This report contains the responses to the 2020-2021 San Joaquin County Civil Grand Jury report regarding Stockton Unified School District. This follow-up report focuses on the 2020-2021 Grand Jury findings and recommendations and the Stockton Unified School District responses which are presented verbatim in this report.

The 2021-2022 Grand Jury reviewed the agency responses to those recommendations. The follow-up conclusions are presented after the agency responses.

**Discussions, findings and recommendations from the 2021-2022 Grand Jury are in text boxes framed in black.**

Complete copies 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

The 2020-2021 Grand Jury investigated the Stockton Unified School District Board of Trustees (SUSD). This investigation was initiated to examine the failure of the Trustees to effectively lead the District. The Grand Jury findings and recommendations initially focused on the short tenure

of SUSD superintendents over the past 15 years and the resultant impact on student achievement. In addition, other issues found to be of serious concern were:

- disregard of policies and procedures;
- Trustee behavior during meetings;
- Trustee disregard of their appropriate roles;
- inappropriate complaints, especially by Trustees against other Trustees; and
- deficient transparency, making it difficult for the public to understand what was taking place.

The 2020-2021 Grand Jury found that Trustee actions negatively impacted Stockton Unified and made it challenging to effect constructive and lasting change. Board behavior also contributed to declining morale and fostered distrust among employees and community members. Twenty-three findings and 19 recommendations were presented to the SUSD Board of Directors.

The 2020-2021 Grand Jury's recommendations to the Board of Trustees were to:

- publicly and officially affirm their commitment to follow their agreed-upon process for recruitment and hiring of a superintendent;
- publicly and officially affirm their commitment to follow their agreed-upon Bylaw 9124 when hiring future legal services;
- publicly agree to abide by the Governance Norms adopted by the Board;
- publicly agree to adhere to the California School Board Association Professional Governance Standards;
- publicly livestream all Board meetings, even after returning to in-person meetings;
- improve timely documentation of Board meetings;
- discuss the findings and recommendations of the 2020-2021 Grand Jury report during a public Board meeting; and
- no longer accept or investigate complaints initiated by Trustees against other Trustees because the District is not the appropriate, nor the legal, venue for these complaints.

### **Method of Follow-Up Investigation**

The 2021-22 Grand Jury reviewed the 2020-2021 responses to the report, *Case #0620, Stockton Unified School District: Dissension, Dismay, and Disarray*, and documented the mandatory responses to the findings and recommendations

These responses were then reviewed to determine:

- if the agency responses were complete and comprehensible;
- if the agency implemented the recommendations within the stated deadlines; and
- if confirmation, including written documentation and interviews, was necessary.

## Glossary

- **Board:** Board of Trustees.
- **Board of Trustees (Trustee):** The members of the Board of Trustees, commonly known as the School Board, are elected representatives of their community. Putting the interest of students' futures first, they are charged with making decisions about the local public school system based on the community's expectations, goals and needs.
- **Brown Act:** A statute which establishes rules for conducting public meetings and under what specific circumstances a public agency may operate in secret.
- **Censure:** A formal and public group condemnation of an individual.
- **CSBA:** California School Board Association.
- **Governance norms:** Agreed-upon behavioral expectations and protocols.
- **Professional Governance Standards:** CSBA's fundamental principles involved in governing responsibly and effectively.
- **Superintendent:** The superintendent is the top executive in the school district. The job is to promote the success of all students and support the efforts of the board of trustees to keep the district focused on learning and achievement.
- **SUSD:** Stockton Unified School District.

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

### 1.0 Stockton Unified Superintendents: A Revolving Door

**2020-21 Grand Jury Finding F1.1:** Superintendent turnover in Stockton Unified School District is as high as anywhere in California, making it impossible to institute lasting, positive change.

***Agency Response:*** *The Board agrees that its rate of Superintendent turnover has been high, although the Board is skeptical that the rate is "as high as anywhere in California" as determined by the Grand Jury. Correcting the figures set forth in the Report, not counting acting or interim appointments, District records indicate that John Ramirez, Jr. is the tenth individual appointed as Superintendent of the District since 2005. There are many reasons for Superintendent turnover, and the Board necessarily disagrees that such turnover makes it "impossible to institute lasting, positive change." Nevertheless, the Board agrees that it would be best if Superintendent turnover were minimized in the future, and in this regard, the Board affirms its strong support for Superintendent John Ramirez, Jr. as the District enters into a new era of leadership and success.*

**2020-21 Grand Jury Finding F1.2:** A major contributing factor to Stockton Unified School District's high superintendent turnover is a history of school board dysfunction.

***Agency Response:*** *There are many possible reasons for Superintendent turnover, including poor performance by the Superintendent, and lack of fit between the Superintendent and the school district. And while the Board is unable to comment on the specific underlying reasons for recent Superintendent turnover due to the employee privacy rights of the individuals, the Board disagrees that a major contributing factor to*

*the turnover has been Board dysfunction. In fact, ever since Superintendent John Ramirez, Jr. was appointed, the Board as a whole has been operating more effectively and more efficiently.*

**2020-21 Grand Jury Finding F1.3:** High superintendent turnover in Stockton Unified School District discourages employees, causing low morale.

***Agency Response:*** *As a general proposition, the Board can agree that high Superintendent turnover can be discouraging to employees and can contribute to low morale. But in this regard, the Board affirms its strong support for Superintendent John Ramirez, Jr., and notes that employee morale at the District has improved markedly since his arrival.*

**2020-21 Grand Jury Finding F 1.4:** When superintendents leave before the term of their contract, they are paid for the remainder. This diverts funds that could be used for educational materials and services.

***Agency Response:*** *The Board disagrees that when Superintendents leave before the term of their employment contract that they are necessarily paid for the remainder of their term. In this regard, California Government Code Section 53260 provides for a buy-out of up to 12 months for school district superintendents, and the questions of whether there will be a buy-out and the amount of any buy-out depend upon a variety of individual factors. Additionally, District records indicate that in the past 25 years, there were only three buy-outs of Superintendent's contracts. Nevertheless, the Board agrees that any such buy-out should be avoided if possible as it does constitute a diversion of educational funds.*

**2020-21 Grand Jury Recommendation R1.1:** By November 1, 2021, the Stockton Unified School District Board of Trustees complete additional intensive governance training, facilitated by a qualified external body such as the California School Board Association.

***Agency Response:*** *It is common practice for members of the Board to participate in various forms of governance training, and the Board will continue to do so. The Board will be happy to schedule a governance training session during an upcoming Board meeting prior to November 1, 2021.*

**Stockton Unified School District Board of Trustees received governance training presented by the California School Board Association on October 26, 2021.**

**The 2021-22 Grand Jury determined to take no further action.**

## 2.0 Best Hiring Practices Ignored by Trustees

### 2.1 Hiring a Superintendent: Agreed-upon Process Disregarded

**2020-21 Grand Jury Finding F2.1:** The Stockton Unified School District Board of Trustees did not follow the "Process for Recruitment and Selection of an Interim Superintendent" nor the "Process for Recruitment and Selection of a Permanent Superintendent," when hiring the current superintendent John Ramirez, Jr. Taking this shortcut produced confusion and mistrust among the board, the staff, and the public.

***Agency Response:*** *Before John Ramirez, Jr. was appointed Superintendent of the District, he served as Superintendent in an interim basis. During that time, it became apparent to the majority of the Board that they wanted Mr. Ramirez to continue as the District's permanent Superintendent, and accordingly, the Board expressly decided not to engage in a lengthy recruitment and selection process. To do otherwise frankly would have been a waste of time and resources. Although there obviously were some individuals who did not initially favor the appointment of Mr. Ramirez as Superintendent, the vast majority of the District community — including teachers, staff, and parents — have embraced and supported the Board's decision to appoint Mr. Ramirez as Superintendent, and there was not widespread "confusion and mistrust." The process in appointing Mr. Ramirez as Superintendent was done in full compliance with law, including California Government Code Section 53262 and the Brown Act.*

**2020-21 Grand Jury Recommendation R2.1:** By September 30, 2021, the Stockton Unified School District Board of Trustees publicly and officially affirm their commitment to follow their agreed-upon "Process for Recruitment and Selection of an Interim Superintendent" and the "Process for Recruitment and Selection of Permanent Superintendent" when hiring future superintendents.

***Agency Response:*** *This Recommendation is not warranted although the Board is fully supportive of Mr. Ramirez as Superintendent and is not considering the need for any recruitment for another Superintendent, the Board recognizes that a similar situation may occur in the future as was the case with the selection of Mr. Ramirez as Superintendent. On the other hand, the Board expresses its full commitment that its recruitment and selection of all employees, including the Superintendent, will continue to be done in full compliance with law.*

<b>The 2021-2022 Grand Jury determined to take no further action</b>
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### 2.2 Hiring a Board Attorney: SUSD Bylaws and the Brown Act Ignored

**2020-21 Grand Jury Finding F2.2.1:** The Stockton Unified School District Board of Trustees did not follow Bylaw 9124, failing to initiate a Request for Proposal when hiring the current board attorney on February 24, 2020. Taking this shortcut created confusion and mistrust among the Stockton Unified Board, the staff, and the public.

**Agency Response:** *The Board's hiring of the Board attorney was in compliance with District Board Bylaw 9124 which permits the contracting of specialized legal services without initiating a formal process "when a majority of the Board determines that the unique demands of a particular issue or emergency situation so requires." At that time, the Board desired to have a new attorney in place as soon as possible, and the Board has been pleased with the legal services provided by this firm since then.*

**2020-21 Grand Jury Finding F2.2.2:** Before the open session meeting to hire the board attorney on February 24, 2020, the Stockton Unified School District Board of Trustees did not make the contract available to the public and the minority-voting trustees. This lack of transparency caused anxiety and increased mistrust among the board, the staff, and the public.

**Agency Response:** *The Board disagrees with this finding. The Board's hiring of the attorney was done in full compliance with law, and the contract for legal services was made available to all trustees and to the public on each of three separate occasions.*

**2020-21 Grand Jury Recommendation R2.2.1:** By September 30, 2021, the Stockton Unified School District Board of Trustees approve a resolution officially affirming their commitment to follow their agreed-upon Bylaw 9124 when hiring future legal services.

**Agency Response:** *This recommendation is not warranted. The Board will continue to comply with its Bylaws unless there is a permissible waiver.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R2.2.2:** By September 1, 2021, all relevant supporting documents, including contracts and financial information, be attached to and distributed with the agenda when hiring legal services.

**Agency Response:** *When hiring for legal services, the District will continue to comply with law. Contracts for legal services will continue to be made available to trustees and to the public in compliance with the Brown Act and the California Public Records Act.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R2.2.3:** By November 1, 2021, the Stockton Unified School District Board of Trustees complete additional intensive Brown Act training facilitated by a qualified external body such as the California School Board Association.

**Agency Response:** *The Board strongly objects to the implication of this Recommendation that the Board has engaged in violations of the Brown Act. Nevertheless, the Board agrees that Brown Act training is good practice for any local public entity in California, and the District will arrange for Brown Act training for the Board within the next six months.*

**Stockton Unified School District received Brown Act training by the California School Board Association on October 12, 2021**

**The 2021-2022 Grand Jury determined to take no further action.**

### **3.0 Meeting Behavior: Trustees Ignore Norms of Civil Behavior**

**2020-21 Grand Jury Finding F3.1:** The current Stockton Unified School District Board of Trustee leadership stifles expression and input from members in the minority, not allowing open and free discussion regarding board meeting agenda items. This undermines the democratic process and limits the representation of the trustees' constituents.

***Agency Response:*** *The Board strongly disagrees with this Finding. The Board absolutely does not stifle expression and input from any trustee. Indeed, the Board welcomes comments and viewpoints from all trustees. On the other hand, Board meetings have been regularly disrupted by certain trustees who speak out of order, who interrupt others, who speak on topics other than the current agenda item, who do not follow the established rules of decorum, and who violate the Board's Code of Ethics. In such instances, the Board leadership has needed to take steps to help control the Board meeting so that the business of the school district can continue to be conducted.*

**2020-21 Grand Jury Finding F3.2:** The current Stockton Unified School District Board of Trustees does not adhere to the agreed-upon SUSD Governance Norms. This negatively impacts the function of the board and the district's efforts to make educational progress.

***Agency Response:*** *The Board disagrees with this finding to the extent that it applies to the majority of the Board. However, a minority of trustees has acted contrary to the Board's Code of Ethics and to principles of good governance such as by disrupting Board meetings and failing to maintain confidentiality. As a matter of law, the Board has limited options to deal with such misconduct by trustees, but has sometimes needed to resort to trustee censure pursuant to District Board Bylaw 9251.*

**2020-21 Grand Jury Finding F3.3:** The absence of a student representative on the Stockton Unified School District Board of Trustees prevents students from having a voice in the governance of the district.

***Agency Response:*** *The Board disagrees that the absence of a student representative on the Board necessarily prevents students from having a voice in the governance of the District because there are other means for students to provide input to the Board. The most recent student representative on the Board resigned, but a new student representative will be appointed pursuant to California Education Code Section 35012 and District Board Bylaw 9150.*

**2020-21 Grand Jury Finding F3.4:** Censuring of Stockton Unified School District Board of Trustees, based on personal disagreements, is an abuse of district time and resources.

***Agency Response:*** *The Board disagrees with this Finding to the extent that it suggests that the Board has issued censures against trustees based simply on personal*

*disagreements. However, the Board unfortunately has needed to censure trustees based on their repeated misconduct in violation of the Board's Code of Ethics .Such censures have not been abuse of District time or resources.*

**2020-21 Grand Jury Finding F3.5:** The current Stockton Unified School District Board of Trustees does not follow the Professional Governance Standards recommended by the California School Board Association.

***Agency Response:*** *The Board disagrees with this Finding as applied to the majority of the Board. However, a minority of trustees has acted contrary to the Board's Code of Ethics and to principles of good governance such as by disrupting Board meetings and failing to maintain confidentiality. As a matter of law, the Board has limited options to deal with such misconduct by trustees, but has sometimes needed to resort to trustee censure pursuant to District Board Bylaw 9251.*

**2020-21 Grand Jury Recommendation R3.1:** By September 30, 2021, a student representative be seated on the Stockton Unified School District Board of Trustees.

***Agency Response:*** *The Board supports the importance of having a student representative on the Board, and the District will make a diligent effort to comply with this Recommendation in a timely manner.*

**Student Board Members share the position and began their roles on September 28, 2021.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R3.2:** By September 30, 2021, the Stockton Unified School District Board of Trustees publicly agree to abide by the Governance Norms which were adopted on April 10, 2018.

***Agency Response:*** *This Recommendation will be implemented.*

**Stockton Unified School District Board of Trustees publicly agreed to abide by the Governance Norms at the September 14, 2021, Board meeting.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R3.3:** As of September 1, 2021, the Stockton Unified School District Board of Trustees cease issuing censures unless a violation of law or policy is demonstrated.

***Agency Response:*** *The Board objects to this Recommendation to the extent that it suggests that the Board has issued censures against its members for improper reasons. The Board will continue to issue censures as necessary to help curb inappropriate, unethical, or unlawful conduct by trustees.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R3.4:** By September 1, 2021, the Stockton Unified School District Board of Trustees' leadership cease to arbitrarily limit discussion by any trustee when addressing agenda items.

***Agency Response:*** *The Board objects to this Recommendation to the extent that it suggests that the Board leadership has arbitrarily limited discussion by any trustee when addressing agenda items. Comments at Board meetings are out of order if not in compliance with the Brown Act and Board Bylaws. The Board already is in compliance with this Recommendation. However, there have been some technical challenges in conducting meetings remotely during the current pandemic, and the District is working diligently to resolve these issues.*

**The 2021-2022 Grand Jury determined to take no further action.**

#### **4.0 Trustee Misunderstanding and Disregard of Roles**

**2020-21 Grand Jury Finding F4.1:** Lack of adherence to California School Board Association Professional Governance Standards among Stockton Unified School District Trustees results in confusion and inefficiencies.

***Agency Response:*** *The Board agrees with this Finding because certain minority members of the Board have consistently violated these Standards, including the provision that "We will speak in a respectful and dignified manner," "We will not attack another person verbally," and "We will not be harshly argumentative or personal in our comments." Other than the misconduct of a minority of the trustees, the Board has been in compliance with these Standards.*

**2020-21 Grand Jury Finding F4.2:** Stockton Unified School District Trustees have been found to direct staff, bypassing the superintendent, causing confusion, and contributing to low morale.

***Agency Response:*** *The Board agrees that there has been a problem historically of trustees getting involved in administrative activities. As a major step towards rectifying this problem, the Board has eliminated some of its committees which were intruding into the administrative role of the Superintendent -- namely, the Curriculum and Student Outcomes Committee, the English Learner Committee, the Safety and Student Conduct Committee, and the Equity/Diversity Committee -- and now, the Board committees focus exclusively on governance issues.*

**2020-21 Grand Jury Finding F4.3:** Stockton Unified School District Trustees have been found to direct superintendents and other administrators to terminate specific administrative employees which could violate normal employment law and procedures.

***Agency Response:*** *The Board strongly disagrees with this Finding. Although the Superintendent may make recommendations to the Board for the termination of employees, the decision to terminate an employee ultimately rests with the Board, and any such termination of a District employee is processed only when necessary and only in compliance with law. When necessary, the Board takes action to terminate the*

*employment of a District employee by a majority vote in Closed Session in compliance with law and Board Policies, including the Brown Act, California Government Code Section 54957. In any event, the law is clear that the termination of employees rests with the Board, such as is set forth in California Education Code Section 44938, and in any event, under California Education Code Section 35160, the Board has broad legal authority and may act "in any manner which is not in conflict with or inconsistent with, or preempted by, any law which is not in conflict with the purposes for which school districts are established."*

**2020-21 Grand Jury Finding F4.4:** Disregard for, or misunderstanding of, the Ralph M. Brown Act among Stockton Unified School District Trustees results in violations of the act and reduced governance transparency.

***Agency Response:*** *The Board disagrees with this Finding to the extent that it suggests that the Board has disregarded or misunderstood the Brown Act. Guided by the Superintendent and legal counsel, the Board is careful to comply with the Brown Act.*

**2020-21 Grand Jury Recommendation R4.1:** By September 3, 2021, the Stockton Unified School District Board of Trustees publicly review the California School Board Association Professional Governance Standards. Each trustee publicly agree to adhere to them.

***Agency Response:*** *The Board will comply with this Recommendation, and hopefully, this will encourage all of the trustees to act appropriately.*

**Stockton Unified School District Board of Trustees publicly reviewed the California School Board Association Professional Governance standards at the September 14, 2021, Board meeting.**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R4.2:** By November 1, 2021, the Stockton Unified School District Board of Trustees complete additional intensive Brown Act training facilitated by a qualified external body such as the California School Board Association.

***Agency Response:*** *The Board objects to the implication of this Recommendation that the Board has engaged in violations of the Brown Act. Nevertheless, the Board agrees that Brown Act training is good practice for any local public entity in California, and will arrange for Brown Act training for the Board within the next six months.*

## **5.0 Frivolous Complaints**

**2020-21 Grand Jury Finding F5.1:** The complaints among the Stockton Unified School District Trustees are not an appropriate means of addressing board dissension, because none of the complaints correctly cite violations of law or policy. These complaints waste district time and money.

***Agency Response:*** *The Board disagrees with this Finding to some extent. There has been a practice of trustees filing complaints against each other, and these complaints historically had been handled and investigated by the District's Department of*

*Constituent Services. Some of these complaints have been meritorious, but the District recently has determined that complaints against trustees, including by employees and constituents, would be investigated externally, possibly leading to trustee censure under District Board Bylaw 9251. Although District employees who engage in misconduct may be suspended or terminated, trustees who engage in misconduct are only subject to censure.*

**2020-21 Grand Jury Finding F5.2:** Frivolous complaints by Stockton Unified School District Trustees against each other harm relationships on the board, making it difficult, if not impossible, for there to be cohesiveness among the board of trustees.

**Agency Response:** *The Board agrees with this Finding to the extent that it applies to complaints that are frivolous. However, some of the complaints that trustees have filed against each other have been meritorious and have led to resolutions of trustee censure.*

**2020-21 Grand Jury Finding F5.3:** Investigations of frivolous complaints made by Stockton Unified School District Trustees against each other waste time and money which could be better used for students.

**Agency Response:** *The Board agrees with this Finding to the extent that it applies to complaints that are frivolous. However, some of the complaints that trustees have filed against each other have been meritorious and have led to resolutions of trustee censure.*

**2020-21 Grand Jury Recommendation R5.1:** As of August 1, 2021, discontinue accepting and investigating all trustee complaints against each other.

**Agency Response:** *The Board will not implement this Recommendation because it is unwarranted and unreasonable. So long as certain trustees continue to act inappropriately and become the subject of complaints by the teachers, staff, students, parents, the community, or other trustees, the Board feels that it is important to investigate these complaints and proceed to censure if necessary. Investigations will be conducted when there are disputes and when fact-finding is necessary to take action.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R5.2:** By November 2, 2021, Stockton Unified School District Board of Trustees participate in intensive governance training related to appropriate roles of the board, facilitated by CSBA consultants or other qualified outside facilitators.

**Agency Response:** *It is common practice for members of the Board to participate in various forms of governance training, and the Board will continue to do so. The Board will be happy to schedule a governance training session during an upcoming Board meeting within the next six months.*

**Stockton Unified School District Board of Trustees received governance training from the California School Board Association on October 26, 2021.**  
**The 2021-2022 Grand Jury determined to take no further action.**

## 6.0 A Lack of Transparency and Public Accessibility

**2020-21 Grand Jury Finding F6.1:** The board meetings lack transparency and sufficient access, making it difficult for members of the community to be informed about what is happening in the district.

***Agency Response:*** *The Board disagrees with this Finding to the extent that it suggests that there has been a lack of transparency and insufficient access in violation of law. As with all public entities in California, the District has needed to make significant modifications to its procedures for public meetings due to the COVID-19 pandemic. However, the Board has conducted its meetings in full compliance with law during the pandemic, following the directives of the Governor's Executive Order No. N-29-20 issued on March 4, 2020.*

**2020-21 Grand Jury Finding F6.2:** Incomplete or unpublished board minutes undermine public engagement and trust.

***Agency Response:*** *The Board disagrees with this Finding to the extent that it suggests that the Minutes of its meetings have been incomplete or otherwise improper. The Board has its Minutes prepared in compliance with District Board Bylaw 9324 and applicable law. The essential purpose of the Minutes, pursuant to California Education Code Section 35163 is to record all official actions taken by the Board, and under California Education Code Section 35145 provides that the Minutes are public records. In this regard, as a regular item of business at its meetings, the Board takes action to review and approve the Minutes of prior Board meetings, and the Minutes are available for public inspection and are posted on the District's website.*

**2020-21 Grand Jury Finding F6.3:** The dissolution of the board subcommittees reduced public engagement and board transparency.

***Agency Response:*** *The Board disagrees with this Finding. First of all, many Board committees remain active, and there is an Agenda Item on every Board meeting for reports from these Board committees. But the Board has eliminated some of its committees which were intruding into the administrative role of the Superintendent -- namely, the Curriculum and Student Outcomes Committee, the English Learner Committee, the Safety and Student Conduct Committee, and the Equity/Diversity Committee -- and now, the Board committees focus exclusively on governance issues.*

**2020-21 Grand Jury Finding F6.4:** All public comments submitted to board meetings are not easily accessible which reduces transparency and public engagement.

***Agency Response:*** *The Board disagrees with this Finding to the extent that it suggests that the District has acted improperly with respect to accessibility of public comments. All submitted written public comments are public records which are fully available to the public under the California Public Records Act.*

**2020-21 Grand Jury Recommendation R6.1:** By August 3, 2021, all Stockton Unified School District board meetings be held in person and open to the public.

**Agency Response:** *The Board will not implement this Recommendation because it is not warranted. Under the Governor's Executive Order N-08-21, the District may continue to conduct its Board meetings remotely through October 1, 2021, and the Board places a high priority on public safety. In any event, the Board will be discussing this issue at a forthcoming Board meeting.*

**Stockton Unified School District Board resumed in-person meetings on April 12, 2022.**

**The 2021-22 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R6.2:** By September 1, 2021, all Stockton Unified School District board meetings be publicly livestreamed, with all trustees on camera. This is to continue when in-person meetings resume.

**Agency Response:** *The Board will not implement this Recommendation because it is not warranted. Moreover, live-streaming of school Board meetings is not required by law.*

**The 2021-22 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R6.3:** By October 1, 2021, evaluate, with public input, the reinstating of previous Stockton Unified School District board subcommittees.

**Agency Response:** *The Board will not implement this Recommendation because it is not warranted. The Board already has considered the issue of Board committees, and to resolve the prior problem of the Board getting involved in administrative activities, the Board eliminated some of its committees which were intruding into the administrative role of the Superintendent. The Board committees now focus exclusively on governance issues, and there is an opportunity at every regular Board meeting for reports from these committees.*

**The 2021-22 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R6.4:** By September 1, 2021, all Stockton Unified School District board meeting minutes include the statement, "All public comments received by the district are available for review by contacting the district office".

**Agency Response:** *The Board will implement this Recommendation.*

**Beginning in July 2021 Stockton Unified School District Board meeting minutes included the statement, "All public comments received by the district are available for review by contacting the district office."**

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R6.5:** By September 1, 2021, post accurate and complete minutes of all Stockton Unified School District board meetings within 30 days of the meeting.

***Agency Response:*** *The Board already has been implementing this Recommendation, and it will continue to do so.*

**The 2021-2022 Grand Jury determined to take no further action.**

**2020-21 Grand Jury Recommendation R6.6:** By November 1, 2021, the Stockton Unified School District board of trustees discuss the findings and recommendations of this full Grand Jury report during a public meeting.

***Agency Response:*** *The Board will implement this Recommendation.*

**The 2021-2022 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 Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

## Section V: Presentations and Tours

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# Presentations & Tours



The 2021-2022 Grand Jury attended the following presentations and toured the following facilities:

## **Presentations**

### **San Joaquin County Departments, Divisions, Agencies and Commissions:**

Behavioral Health Services

Board of Supervisors—Redistricting Committee

Civil Service Commission

District Attorney's Office

Health Care Services Agency

Human Resources Department

Human Services Agency—Children's Services

Information Systems Division

Initiatives for Homeless

Probation Department—Adult Services and Juvenile Services

Registrar of Voters

Sheriff's Office

### **City Departments and Agencies:**

Lodi Police Department

Manteca Police Department

Ripon Police Department

Stockton Police Department

Tracy Police Department

### **Other Presentations:**

Private Engineer for independent reclamation districts

## **Tours and Patrol Observations**

### **Tours:**

San Joaquin County Jail

San Joaquin County Juvenile Detention Facility

The Port of Stockton

### **Patrol Observations:**

Escalon Police Department

Lodi Police Department

Manteca Police Department

Ripon Police Department

San Joaquin County Sheriff's Office

Stockton Police Department

Tracy Police Department

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# Grand Jury Process



## **About the Grand Jury**

The San Joaquin County Grand Jury's duty is to address concerns regarding the operation of local government entities.

The 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 from 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 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 and efficiently, and that public monies are being handled appropriately. The grand jury may conduct investigations of elected officials, public agencies and the administrations 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, functions, accounts and records of city and County offices and departments;
- inquire into allegations of willful or corrupt misconduct by public officials;
- investigate the activities of all school and special assessment districts within the County; and
- 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 impanels 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 and functional committees meet throughout the week.

In addition, jurors may meet with County and city officials, visit detention facilities located within the county and conduct independent investigations on matters of interest or concern. Each of the committees reports to the full grand jury. Conclusions are reached after study and thorough discussion of the issues and 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, and
- 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 and include:

- the satisfaction and pride of doing an important job;
- the experience of being a member of a respected panel;
- participation in a body with the unique authority to see local government workings not available to most county residents; and
- the opportunity to make a difference in one's community.

## **Qualifications for Being a Grand Juror**

To be considered for nomination to be a grand juror, one 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 service;
- possess intelligence, sound judgement and good character; and
- have sufficient knowledge of English to communicate orally and in writing.

One cannot be considered if:

- one is serving as a trial juror in any court in California;
- one has been convicted of malfeasance in office or any other high crime; or
- one is serving as an elected public officer.

Applications for grand jury service may be found at the following link:

<https://www.sjcourts.org/wp-content/uploads/questionnaire.pdf>

## **Complaints**

A cornerstone of the grand jury process is to receive and review 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 to review thoroughly and investigate issues. Through reviews of documents and interviews of witnesses, the grand jury process holds a strong light on 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 Grand Jury Complaint process is a valuable tool for the grand jury in determining issues of importance to the community. Complaints are treated as confidential, allowing a complainant to come forward without intimidation.

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 person may submit a complaint by completing a Grand Jury Complaint Form. However, not all complaints are investigated. With so many issues possibly brought before it, the grand jury must make difficult decisions about what investigations to undertake during its term.

If the issue identified in a complaint falls within the grand jury's jurisdiction, the complaint is assigned to a preliminary committee review to determine whether the complaint has merit. After the initial review, the committee presents its recommendations to the entire grand jury. The grand jury decides whether or not to take action, initiating a thorough investigation if such action is approved. After the investigation is completed, a final report may be released revealing findings and any recommendations the grand jury has in the matter. Any grand jury action requires a supermajority (12 jurors) vote.

A complaint should be submitted to the grand jury only after all other means to correct the issue have been explored and attempted.

The San Joaquin County Civil Grand Jury Complaint Form can be found at:

<https://www.sjcourts.org/wp-content/uploads/GrandJuryComplaintForm2.pdf>

The completed form should be sent to:

San Joaquin County Superior Court

Attn: Trisa Martinez, Judicial Secretary

180 E. Weber Avenue

Suite 1114, Stockton, CA 95202

Forms can also 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 Avenue, Suite 1114, Stockton, CA 95202



