

# San Joaquin County Grand Jury



## STOCKTON UNIFIED SCHOOL DISTRICT *Swiftly Hired*

**2013 - 2014 Case No. 0813**

### **Summary**

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

### **Glossary**

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

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

## **Background**

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

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

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

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

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

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

## **Reason for Investigation**

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

## **Method of Investigation**

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

### **Materials Reviewed**

- SUSD Board Minutes
- Stockton Record blog reports
- California Education Code Section 38000(b)
- California Government Code Section 1031

- SUSD Board Policies and Procedures on Hiring
- Numerous local press articles
- California Education Code Section 45125

### **Interviews Conducted**

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

### **Sites Visited**

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

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

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

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

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

District BP 4212 states:

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

*“Individuals appointed to the classified staff shall fulfill the following requirements:*

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

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

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

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

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

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

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

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

## **Findings:**

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

**F 1.2** The District violated California E.C Section 45125 by not first receiving and reviewing the DOJ report before allowing the Interim Chief and Captain to begin work.

**F 1.3** The District violated BP Section 4212 by not first receiving and reviewing the DOJ report before allowing the Interim Chief and Captain to begin work.

## **Recommendations:**

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

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

## **Conclusion**

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

## **Disclaimers**

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

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

## **Response Requirements**

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

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

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

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

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