



2005 – 2006 Final Report

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Sacramento County
2005-2006 Grand Jury
Final Report
June 30, 2006

www.sacgrandjury.org

Dedication to
Michelle Park

The 2005-2006 Sacramento County Grand Jury dedicates this volume to **Michelle Park** for her extraordinary service as Executive Secretary to 16 consecutive Grand Juries. Michelle retired from public service on December 30, 2005. Her service has reflected exceptional devotion to the interests of efficiency and integrity in government. Her wit, charm, and thoughtfulness will be long remembered.

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Sacramento County **GRAND JURY**



June 30, 2006

Honorable Raymond M. Cadei, Advisor Judge to the Grand Jury
Sacramento Superior Court
720 Ninth Street, Department 5
Sacramento, CA 95814

Anthony S. Da Vigo, Foreman

Robert R. Argo

Illene J. Carroll

Alex Eng

Gerald A. Farrell

Debra Henry

Bonnie S. Jones

Salomon A. Lee

June L. Long

Virginia S. Mueller

Cheryl L. Nelson

Melena A. Ose

Patricia L. Rouas

Neil F. Taber

Keith F. Tronson

James R. Tucker

William R. Uhrig

Barbara D. Ullman

Richard W. Weitzenberg

and
The Citizens of Sacramento County

Dear Judge Cadei and Citizens of Sacramento County:

With considerable pride, I am pleased to submit the 2005-2006 Final Report of the Sacramento County Grand Jury. The reports which have been formalized in this document for public scrutiny and mandatory response from the affected officers and agencies within the county pursuant to Penal Code section 933, subdivision (c), represent a portion of the Grand Jury's accomplishments during its one year term.

In addition to the formal reports on a variety of subjects considered by the Grand Jury, the 2005-2006 Final Report introduces a new section entitled Comments and Updates on Selected Responses to the Findings and Recommendations of the 2004-2005 Grand Jury Final Report. The purpose of this new section is to provide continuity with the preceding Grand Jury, and a closure to its contributions, as more fully set forth in the introduction to that section.

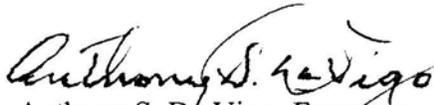
On behalf of the Grand Jury, I would like to commend the many public servants we have encountered in the course of our investigations during this year. They are truly dedicated to making a difference in the quality of life in Sacramento County, notwithstanding that public service is the road less traveled, often less appreciated and sometimes unfairly maligned in the public domain.

It is the duty of the Grand Jury to seek out areas of inefficiency and dishonesty wherever they may exist within its jurisdiction, and to make recommendations for improvement as deemed warranted. In this regard, I must also acknowledge the members of this year's Grand Jury, who not only devoted a year of their lives to this unique commitment, but served extraordinarily on behalf of others.

Finally, I especially thank Raymond Cadei, Judge of the Superior Court, for his guidance, advice and availability, as well as Robert Ryan, Jr., County Counsel, and representatives of the District Attorney's Office for their invaluable assistance.

I commend the experience of Grand Jury Service to anyone with time, ability and interest in participating in this instrument for better government.

Sincerely,



Anthony S. Da Vigo, Foreman
2005-2006 Sacramento County Grand Jury

ASD/bc

2005-2006
Sacramento County Grand Jury

Robert R. Argo	Educator, retired	Elk Grove
Illene J. Carroll	Educator, retired	Sacramento
Anthony S. Da Vigo	California State Deputy Attorney General, retired	Sacramento
Alex Eng	State of California, retired Community activist	Sacramento
Gerald A. Farrell	Food Manufacturer Executive, retired	Carmichael
Debra Henry	Project Manager AC Public Affairs	Sacramento
Bonnie S. Jones	State of California Investigator, retired	Elk Grove
Salomon A. Lee	State of California, DSA Mechanical Engineer, retired	Sacramento
June L. Long	California State Deputy Attorney General, retired	Fair Oaks
Virginia S. Mueller	Attorney at Law	Sacramento
Cheryl L. Nelson	Director of Client Services UC Davis, retired	Sacramento
Melena A. Ose	Community Volunteer	Sacramento
Patricia A. Rouas	Advertising Executive, retired	Sacramento
Neil F. Taber	Sacramento County District Attorney Investigator, retired	Elk Grove
Keith F. Tronson	C.P.A., Association Executive	Sacramento
James R. Tucker	Attorney at Law	Sacramento
William R. Uhrig	US Navy, retired	Orangevale
Barbara D. Ullman	Community Volunteer	Sacramento
Richard W. Weitzenberg	Civil Engineer	Sacramento

Formation and Organization of the Sacramento County Grand Jury

Under Penal Code section 933, the Grand Jury is an independent body that reviews operations of the county, cities, school and special districts within Sacramento County. The Grand Jury is an arm of the court and has subpoena powers.

The Grand Jury is empowered to investigate citizen complaints about government entities. It may also investigate matters on its own initiative, including allegations of criminal activity. Criminal cases are presented to the Grand Jury by the Sacramento County District Attorney. If it is determined that there is probable cause to believe an accused person (or persons) has committed a felony, the Grand Jury returns an indictment. An indictment is an accusation to which the accused enters a plea in the Superior Court.

The Grand Jury is comprised of 19 people drawn at random from a pool of county citizens whose names were randomly selected, along with other interested individuals, to be considered for nomination by a Superior Court Judge. A minimum of 12 of the 19 jurors must authorize the undertaking of an investigation. The Grand Jury has five subject committees that carry out authorized investigations: Administrative & Municipal Affairs; Education; Criminal & Juvenile Justice; Environment, Public Works & Special Districts; and Health and Human Services. The Grand Jury also has two other committees critical for its success: the Continuity Committee and the Edit Committee.

By law, Grand Jurors may not disclose evidence obtained in their investigations or reveal the names of complainants. Similarly, witnesses are prohibited from disclosing any proceedings of the Grand Jury.

The results of major investigations are contained in reports that include findings and recommendations. Twelve jurors must concur to release a report to the public. These documents can be published as stand alone reports or be included in the Final Report at the expiration of the Grand Jury's term of office. Copies of Grand Jury reports are available on www.sacgrandjury.org and can be accessed through the City – County Library System.

Any individual may file a complaint with the Sacramento County Grand Jury. All complaints are held in the strictest confidence. A complaint form is at the back of this report, or may be downloaded from www.sacgrandjury.org, or may be obtained by calling the Grand Jury Office at (916) 874-7559.

Year In Review The 2005-2006 Grand Jury Perspective

The 2005-2006 Grand Jury served for a year and completed its term on June 30, 2006. More than 75 complaints were received and reviewed.

This final report details specific investigations leading to recommendations for the named districts and county agencies. However, these investigations do not cover the entire scope of the activities the Grand Jury pursued. This *Year in Review* section provides additional information on tours and complaint evaluations.

The work of the Grand Jury is organized by the following subject committees: Administrative & Municipal Affairs; Education; Criminal and Juvenile Justice; Environment, Public Works and Special Districts; and Health and Human Services. Committees are assigned complaints according to subjects. The Edit Committee oversees the preparation of single issue reports and the final report to the citizenry. The Continuity Committee prepares and provides for effective transition from one Grand Jury to the next and organizes collegial events.

Following are Year In Review Reports from each subject committee.

Administrative & Municipal Affairs Committee

The Administrative & Municipal Affairs Committee (AMA) is responsible for investigating the policies and procedures relating to the administration and management of municipal agencies within Sacramento County. The committee reviews budgets, organizational charts, policies and procedure manuals, and any other pertinent information relevant to complaints concerning any municipal agency within Sacramento County.

This year, AMA received twelve complaints, opened seven for investigation, and contributed two reports for inclusion in the Final Report. The committee commented on the responses given to two of the reports included in the 2004-2005 Grand Jury Final Report, and investigated one complaint carried over from the 2004-2005 Grand Jury, which is commented on below.

The Grand Jury received a complaint that the City of Sacramento allowed a developer, i.e., Lennar Communities, Inc. and Lennar Winncrest, Inc. (Lennar), to receive public bond proceeds for private gain in violation of various laws prohibiting gifts of public funds. The complaint alleged that the city authorized payments to Lennar in excess of the costs incurred in constructing the infrastructure. The Grand Jury joined with the District Attorney to review the issues involved. The city represented that it received legal opinions from bond counsel that its handling of the payments to Lennar was appropriate, but has been unwilling to provide these opinions. Therefore, the Grand Jury has been unable to determine whether the payments were appropriate, or whether Lennar, having voluntarily assumed the Mello-Roos obligations upon its own property, now has any legitimate legal claim for reimbursement. Under anti-gift of public funds provisions of the California Constitution, Article XVI, Section 6, neither a good faith

expectation, whether based on industrial standards or otherwise, nor a mere moral claim for reimbursement, would constitute a legitimate legal claim for reimbursement.

Prior to the November 2005 election, Grand Jurors were given a briefing on election officials training and polling place operations, with emphasis on the new voting machines for visual and/or hearing impaired voters. Members of the Grand Jury visited many polling places on Election Day to observe the election officials and precinct procedures.

Criminal and Juvenile Justice Committee

The role of the Criminal and Juvenile Justice Committee (C&JJ) is to review and investigate complaints regarding the criminal justice agencies within Sacramento County. C&JJ investigates agency and correctional facility compliance with their policies and procedures, as well as state and federal laws. During the year, C&JJ received 25 complaints from citizens and inmates. Eight of the complaints were investigated; two reports were issued and are included in this final report.

Complaints investigated, but which did not result in a report, include a range of subject matter, such as:

- California State Prison, Sacramento – handling of legal mail, health and food preparation, complaints against staff.
- Sacramento County Main Jail – inmate abuse issues, including violation of inmate civil rights and booking procedures.
- Rio Cosumnes Correctional Center – mental and physical abuse of female inmates.
- Complaints from two inmates housed at California State Prison, Sacramento, regarding the handling by prison staff of mail addressed to inmates as “legal mail”. C&JJ committee members interviewed mail room staff and viewed first hand the policies and procedures regarding the distribution of mail to inmates. C&JJ also reviewed the mail room policies and procedures, and found them in conformance with mandates set forth in the laws of the State of California. The committee acknowledges that the staff at California State Prison, Sacramento, faces security issues each day in regard to contraband disguised as “legal mail” entering the prison.

The committee arranged the mandatory Grand Jury tours of correctional facilities within Sacramento County, inquiring into the condition and management of these facilities. During the tours, the Grand Jury was briefed by correctional staff and spoke with staff and inmates. The Grand Jury toured the facilities, inquired about medical services, educational and vocational programs and observed facility conditions. Facilities toured included:

- California State Prison, Sacramento
- Folsom State Prison
- Sacramento County Main Jail
- Rio Cosumnes Correctional Center
- Sacramento County Work Release Facility
- Sacramento County Juvenile Hall
- Warren E. Thornton Youth Center

- Sacramento County Boys Ranch
- Sacramento County Juvenile Assessment Center

Education Committee

The role of this committee is to monitor the activities of school districts within Sacramento County, as well as the Los Rios Community College District. The committee examines citizen complaints alleging school district irregularities.

During the 2005-2006 term of the Grand Jury, the Education Committee received eight complaints. Five complaints were investigated. The report on Sacramento City Unified School District, Selection of a Retirement Incentive Program is contained in this publication. In three consecutive years, the Grand Jury initiated investigations into retirement programs for school districts. Other complaints investigated, which did not result in a report, include allegations such as:

- illegality of forming a non-profit corporation to benefit a school district.
- conflict of interest violation by a public official.
- fraud, theft and harassment by school management.
- waiver of grade point average requirements for male athletes.
- use of public property for private gain.
- illegal billing of students for extra curricular activities.

These investigations were closed without comment.

Environment, Public Works and Special Districts Committee

The Environment, Public Works and Special Districts Committee reviews local and county government agencies, as well as over 100 special districts located in Sacramento County. The committee received five citizen complaints, and of these, one was investigated and a report is included in this Final Report; three were considered and closed without comment.

In addition, the Grand Jury initiated an inquiry into the four public cemetery districts in Sacramento County to determine if the districts will be able to meet the future needs of their communities. The four cemetery districts are:

Sylvan Cemetery District, 7401 Auburn Boulevard, Citrus Heights

Fair Oaks Cemetery District, 7780 Olive Street, Fair Oaks

Elk Grove – Cosumnes Cemetery District, 8500 Elk Grove Boulevard, Elk Grove

Galt –Arno Cemetery District, 14180 Joy Drive, Galt

The Sacramento County Board of Supervisors appoints a Board of Trustees for each cemetery district. These trustees are responsible for oversight and approval of the operations and finances of the districts. A General Manager and 3 to 5 employees operate each district.

Funding for the cemetery districts comes from a mixture of property taxes, sales of burial plots, services rendered, and interest from their endowment funds. Three of the districts serve a greater area than that from which they are able to collect property taxes. State law severely limits the districts as to the sales and services they can offer beyond basic opening and closing of the graves. The state restrictions make it difficult for the districts to accrue the funds necessary to purchase new property for future use. The 2006-2007 annual budgets for the districts range from \$273,000 to \$974,000.

Based on current plots available for sale, and the sales rate per year, three of the four districts are projected to be sold out in the next 10 years (Galt-Arno) to 30 years (Sylvan), at which time they will go into a perpetual care mode and draw their operating funds from property taxes and endowment earnings. Only the Elk Grove – Cosumnes district has land available to provide burial services well into the middle of the next century. If the Sacramento County Board of Supervisors determines it is in the public interest for the other three districts to continue to provide public cemetery service to the citizens of the county, it and the districts, need to identify suitable locations for new public cemeteries and provide the funding to purchase or otherwise protect these locations for future cemetery use.

The Grand Jury finds that the four public cemetery districts in Sacramento County are doing an excellent job of meeting the obligation to provide cemeteries that are cared for in a dignified and respectful manner, while maintaining and preserving historic public burial sites and providing burial services at less cost than those available from private cemeteries. The lower cost aspect is especially important for county residents in lower economic levels.

Health and Human Services Committee

The role of this committee is to investigate and gather information on policies and procedures of health and human service agencies serving Sacramento County. These include: Bureau of Family Support, Coroner's Office, Department of Health and Human Services, Department of Human Assistance, Department of Mental Health, Public Administrator/Public Guardian, Senior and Adult Services.

During the 2005-2006 year, this committee received seven complaints, and opened four for investigation. It submitted three reports for inclusion in this Final Report.

- Child Protective Services Intake Procedures
- Goals & Objectives of Mental Health Services in Sacramento County Under the Mental Health Services Act
- Flood Disaster Evacuation of the Medically Infirm

Allegations were made against the Sacramento Police Department stating they did not comply with the laws regarding the "gravely disabled" due to mental disorders. The results of a nationwide search of statutes and appellate cases failed to substantiate these claims.

2005-2006 Reports

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MAIN JAIL HEALTH CARE

Issue

Would a modification of health care delivery procedures improve service to inmates at the main jail?

Reason for the Investigation

As the result of a Grand Jury tour of the main jail, as well as various complaints received by the Grand Jury, an investigation was conducted of various aspects of health care delivery in the jail.

Method of Investigation

The Grand Jury received and reviewed the following documents:

- Medical policies
- Budget summaries
- Vacancy and turnover reports
- A listing of jail healthcare complaints for a one year period
- Summaries prepared by a jail nurse of inmate complaints with statistics on the number of valid complaints covering the period from May 2003, to October 2005
- Incident reports involving medical issues and/or medical personnel
- Implementation schedule for new pharmacy software
- Written responses from the Sacramento-Sierra Medical Society, in which it refused to provide the Grand Jury with peer review reports related to jail health care
- Patient Care Policy Committee minutes
- Prior Grand Jury Report for 2003-2004 relating to the jail pharmacy system (www.sacgrandjury.org)
- Written response to Grand Jury questions from the Chief, Correctional Health Services, Sacramento County Sheriff's Department, dated March 13, 2006
- Written response to Grand Jury questions from the Assistant Chief, Correctional Health Services, Director of Nursing-Main Jail
- Written report from the Board of Corrections, State of California, entitled "2002/2004 Biennial Inspection"

In addition, the Grand Jury interviewed the following jail personnel:

- Six Registered Nurses
- One Licensed Vocational Nurse
- Director of Nursing
- Medical Director

Background and Facts

The Grand Jury received various complaints regarding health care delivery at the main jail. In addition, the Grand Jury conducted a tour of the main jail, as well as other correctional facilities throughout the county. As the result of the information obtained from these sources, the Grand Jury requested various documents from the Sheriff's Department. Based on a review of these documents and the interviews listed above, the Grand Jury determined the following:

1) In response to the 2003-2004 Grand Jury recommendation that a computerized pharmacy system needed to be installed, the Sheriff's Department informed the Grand Jury that such a system would be established by late 2004 or early 2005. That did not occur. Instead, the effort referred to by the Sheriff's Department was scrapped and a new initiative was undertaken. The Grand Jury was informed by correspondence dated January 5, 2006, that the new system would be operational in the main jail in the middle of 2006.

2) Vacancy data submitted by the Sheriff's Department indicated there was a nurse vacancy rate of approximately 30%. The July 2005 Vacancy Report indicated there were 15 vacant registered nurse positions, which represent 30.61% of the authorized positions. In interviews, the Grand Jury confirmed this was an accurate number and it represents a chronic problem related to difficulties in recruiting and hiring nurses. The Grand Jury was informed the problem was addressed to some extent by the use of nurses from the Nurse Registry, at additional cost. The Grand Jury was also informed that, as a result of the vacancies and nurse absences due to illness and vacation, there were occasions when nurse sick call could not be conducted. Data provided at the request of the Grand Jury established that in the 54 week period from February 28, 2005 to March 13, 2006, inmates were seen on six floors of the jail from a low of 175 days on one floor to a high of 256 days on another floor. In some weeks during this time period, inmates on some floors had access to nurse sick call on only one day. The average for all floors for the 54 week period was 211 days.

3) Based on interviews and a review of the minutes of the Patient Care Policy Committee, the Grand Jury determined inmates have access to health care in four ways:

a. At intake, the interviewing nurse can determine that an inmate needs to be expedited to doctor sick call. This means the inmate is to be seen by a nurse or a doctor within two hours of completing the booking process. No record was kept of whether or not this goal was consistently met. However, nurses faxed the expedite form to a receiving nurse. If that nurse did not receive the inmate within the two hour time period, an inquiry would be initiated with custody staff to determine why the inmate had not been brought to the nurse.

b. Inmates can request to be seen during nurse sick call by filing a request. The requests are compiled at the end of each day, and medical charts are pulled and left for the next day's nurse sick call. The list is not triaged, which means inmates are seen in the order they are brought to the nurse by custody staff. If an inmate is not seen, either because nurse sick call was not held or because the inmate was not available, the inmate must start over again at the next available date. While a chart entry is supposed to be made

indicating the inmate was not seen, no other record is kept which would indicate whether the inmate is a carryover from the previous list. Such inmates are not given priority at the next nurse sick call. This fact, combined with the fact that sick call is not always held Monday through Friday, means there is potential for an inmate to not be seen for up to four days, or even longer in rare instances.

c. An inmate can press the call button in the cell and ask a guard to take him to a doctor or nurse. Whether this happens is dependent totally on the custody staff.

d. An inmate can sign up for doctor sick call.

4) There is no formal process for maintaining data regarding the operation of the jail health care system. Thus, while various procedures such as the two hour expedite process are in place, there are no data as to whether and to what degree the system is successful. There are no data to show how many inmates are not seen once they sign up for nurse sick call. There are no data available regarding the number of times that inmates who have signed up for nurse sick call are seen on the day they submitted their request, or on a subsequent day.

The one area where data are informally maintained is in regard to inmate complaints. One of the supervising nurses diligently reviews inmate complaints regarding health care and makes a determination whether the complaint has merit. This information is maintained on hand written spread sheets, and the summary numbers are reported to the Director of Nursing and the Medical Director. However, no standards have been developed as to whether the number of overall complaints, or the number of complaints that have been determined to have merit, are significant, i.e., have reached a threshold that should cause the supervisors to take some action.

For example, a review of the spread sheets indicates a range of complaints over the period from May 2004 to October 2005, from a high of 189 in one month to a low of 70 in another. These same records indicate that approximately 5 to 10% of these complaints have merit, ranging from items such as incorrect medications being given inmates, to being denied access to medications. No one to whom the Grand Jury spoke could state whether these numbers exceeded rates of acceptability established by the jail medical staff.

5) The lack of quantified standards and measured results is exacerbated because the jail health care system is not accredited. In 2003, the Institute for Medical Quality conducted a preliminary review to determine whether the jail could meet its standards. The Institute found several problems. Among them, the jail lacks a pharmacy dispensing system meeting the minimum Institute standards. In addition, jail nurses are required to collect forensic evidence, which is in opposition to accreditation standards. Sacramento County Jail nurses are the only nurses in the state of whom this is required. These factors have prevented accreditation.

However, the Grand Jury believes accreditation would provide the types of documents and concrete standards that allow the public to better judge the operations of the jail health care system. Accreditation would also allow the public to compare the Sacramento County Jail with other jails that are accredited throughout the state. This type of accountability is vital to maintain public confidence in an area that will always be contentious. For reasons stated below, the

Grand Jury takes the position that the county should halt the process of nurses collecting forensic evidence. This would allow the jail to seek accreditation, since the pharmacy issue is being addressed.

6) The Grand Jury learned of several incidents involving attempted assaults on nurses during the past year. These incidents occurred when nurses were alone with the inmate in the examination room during nurse sick call. No custody staff was immediately outside of the examination room. As a result of these incidents, the nurse conducting sick call is now accompanied by a nurse's assistant during the examination. However, the option of having custody staff outside the examination room has not been implemented.

A second potential risk to nurses is posed by the practice of having nurses collect forensic evidence. This practice conflicts with the nurse's role of providing care to the inmates, in that the nurse takes on an investigatory role. This means when the nurse encounters the inmate again, after taking the evidence, the inmate may act out against the nurse. Thus, the practice not only creates a potential conflict of interest for the nurse, but also creates the possibility of harm. This practice was cited by the Board of Corrections in its biennial inspection report as a violation of California Code of Regulations, Title 15, which establishes minimum standards for local adult detention facilities.

7) While the Grand Jury received complaints in regard to specific cases of inmate care, it was not able to evaluate those complaints for several reasons. First, the only medical review the Grand Jury was able to determine exists is conducted by the Sacramento-Sierra County Medical Society. The Grand Jury sought copies of those reviews, but was told by jail staff the reviews were confidential and would have to be obtained from the Medical Society. However, when the Grand Jury contacted the Medical Society, they adamantly refused to provide any specific information about the reviews, citing legal provisions making such medical reviews confidential. The Medical Society indicated it would not provide the information, and any effort to obtain it by the Grand Jury would be met with legal action.

Thus, while the Grand Jury was able to determine that such reviews do occur and are reviewed by the Medical Director, there was no practical way for the Grand Jury to determine the nature of the problems found by the reviews and what, if any, actions have been taken by the medical staff to address those problems. In addition, the Grand Jury does not have access to health care specialists who could review medical records and provide an independent medical evaluation.

In closing, the Grand Jury would like to emphasize that, throughout interviews with medical staff, there was no indication of any indifference to care being provided to the inmates or any lack of professionalism. In fact, the contrary certainly appeared to be the case. A commitment to providing the best possible care was expressed by all the staff.

Findings and Recommendations

Finding 1. Chronic understaffing of nurses has led to an inability to consistently conduct nurse sick call Monday through Friday. This raises the likelihood that inmates who sign up for nurse sick call may not be seen for up to four days from the date of request to see a nurse. Since nurse sick call is the primary way for an inmate to be seen by a jail physician, this means that inmates who need to be seen by a physician have their care delayed, possibly leading to serious harm to the inmate.

Recommendation 1. The 30% vacancy rate for nurses needs to be significantly lowered and the reliance on the Nurse Registry should be reduced.

Finding 2. Quality assurance and the overall collection of data about healthcare in the jail are conducted on an informal basis. This means there is an inability to measure success or failure and an inability to quantify the goals of the health care system. It also means that there can be limited oversight of the system, since it is difficult to determine exactly what is occurring.

Recommendation 2. The jail should seek accreditation by the Institute for Medical Quality through their Corrections and Detentions Survey Program. This would provide measurable performance standards that permit the jail officials and the public to better assess the quality of health care delivery.

Finding 3. Several incidents in the past year highlight the risks to nurses during nurse sick call when they are alone while examining an inmate.

Recommendation 3. A custody officer needs to be stationed outside the examination room during nurse sick call to ensure that, if an incident occurs, a response can occur within seconds.

Finding 4. The current system of dispensing medication is a manual system that increases the risk of incorrect medications being given, does not allow for the avoidance of medications being given that might dangerously interact, and does not allow for inventory control. While the jail staff has indicated for several years that the system is going to be replaced, there have been difficulties with the process, and delays have occurred. However, the latest schedule indicates a new system will be in place, at least in the jail, by the middle of 2006.

Recommendation 4. Jail officials need to regularly keep this and successor Grand Juries updated on the progress of replacing the old manual system, including progress reports on the implementation and its utilization of the system. These updates should be provided on a quarterly basis.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **Sheriff, County of Sacramento**

ELK GROVE CITY COUNCIL THE HANDLING OF POLITICAL DISSENT

Issue

Do Councilman Michael P. Leary and other members of the Elk Grove City Council (EGCC) promote or allow the free expression of political dissent with respect to the activities or policies of the council?

Reason for the Investigation

The Grand Jury received complaints that Councilman Leary and other members of the EGCC engaged in conduct which, by its nature, was intended or designed to intimidate the free expression of political dissent with respect to the activities or policies of the council.

Method of Investigation

The Grand Jury received sworn testimony from the following:

- Constituents and residents of the City of Elk Grove
- Two members of the EGCC, including Councilman Leary

The Grand Jury reviewed video tapes of public meetings of the EGCC, and the Code of Ethics adopted at the April 27, 2005 city council meeting.

The Grand Jury obtained by, legal process, and reviewed an exchange of electronic mail between Councilman Leary and a constituent.

The Grand Jury consulted California state and federal appellate and Supreme Court cases bearing upon the conduct of a city council.

Background and Facts

The Grand Jury received a complaint that EGCC Councilman Leary, at a meeting of the city council on April 27, 2005, threatened to deny grant funds to any organization whose members publicly criticized the council with respect to an unrelated matter. Councilman Leary did, in fact, threaten to withhold funding from an organization, one or more members of which had expressed disagreement with the EGCC, to wit:

“I will be quite frank with a situation that grinds me the wrong way. Individuals in this community want to throw darts at this council and want to trash us and say things that are

inappropriate. And then on the other hand, want to come up with their hat in their hand asking for money for different programs they are involved with. I would like to say that I am not apt to fund things that those individuals sit on.”

Mayor Daniel Briggs interjected that board members might be making comments outside the scope of their board membership, and that organizations that solicit funds from the city should take more care when selecting their board members.

Councilman Leary continued:

“Common sense would kick in and say, ‘On one hand, I am beating them up in the paper, and another time I am sitting here asking them for money.’ I am putting that particular person on notice about how I am feeling.”

Other council members verbally indicated concurrence with Councilmen Leary and Briggs. At the May 11, 2005 EGCC meeting, one council member expressly disassociated herself from the remarks made at the April 27th meeting.

In the Grand Jury’s view, Councilman Leary and concurring members, by these remarks, compromised their duty to predicate their decisions based upon the public good, rather than for the purpose of impairing political dissent. It has been held by the courts of this state:

“Governing bodies of municipalities stand in a higher category, higher than that of mere employees and directors of a private corporation; whatever other functions they may be called upon to perform, members of a municipal council or other body are at all times trustees of the public welfare. Obviously, such trusteeship does not call for competition and strife between such bodies and the interested members of the public.” (*Los Angeles County v. City Council of Lawndale* (1962) 202 Cal. App. 2d 20, 24, *Hubble v. City of Los Angeles* (1956) 142 Cal. App. 2d 1, 5.)

The Supreme Court of the United States also has held that a funding decision by a public agency cannot be aimed at suppressing criticism. (*Legal Services Corp. v. Velazquez* (2001) 531 U.S. 533, 548-549.)

The EGCC, later in the same meeting of April 27, 2005, adopted an eleven point City Code of Ethics. This Code of Ethics was in response to a Sacramento County Grand Jury Report dated February 28, 2005 (www.sacgrandjury.org). One of these points states, “I treat my fellow city officials, staff, commission members and the public with patience, courtesy, civility and respect, even when we disagree on what is best for the community and its citizens.”

The Grand Jury is also in receipt of a complaint relating to comments by electronic mail from EGCC Councilman Leary to a constituent in response to the constituent’s earlier email critical of Councilman Leary’s action at a meeting of the city council on June 16, 2004. In his response to this email and to the constituent’s ongoing criticism, which he viewed as “anti-law enforcement,” he threatened to publicly expose a past misdemeanor conviction of the constituent.

At the time, Councilman Leary was employed as a Sergeant with the Sacramento County Sheriff's Department, and made the threat through official law enforcement channels of communication.

In the Grand Jury's view, Councilman Leary's attitude to political dissent by a constituent is inconsistent with our "... 'profound national commitment,' to the principal that 'debate on public issues should be uninhibited, robust, and wide open.'" (*Boos v. Barry (1988) 485 U.S. 312, 318.*) This profound national commitment, as applied to a city council, is codified in California in Government Code section 54954.3(c): "The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs or services of the agency, or of the acts or omissions of the legislative body."

The threat was even more egregious because it was made through official law enforcement channels, giving it the color of law.

Findings and Recommendations

Finding 1. Councilman Leary's comments in open session of a meeting of the EGCC on April 27, 2005 were inconsistent with the proper role of the legislative body of a local agency, in that the threat to deny funding was intended, designed and clearly perceived as a means of limiting political dissent with respect to the council's policies, procedures, programs or services.

Recommendation 1. Councilman Leary's comments and communications, which are the subject of this report, should be censured by the entire city council in open session.

Finding 2. With one exception, council members failed to disassociate from Councilman Leary's intimidating comments about council funding. Mayor Briggs' suggestion that boards carefully select board members confirms his agreement with Councilman Leary's threats.

Recommendation 2. Individual council members must clearly disassociate themselves from intimidating and unacceptable comments made, and behaviors expressed, by other members which are the subject of this report.

Finding 3. While the city council adopted a Code of Ethics, they did not put in place any enforcement procedures or consequences.

Recommendation 3. The city council should adopt procedures and policies related to the enforcement of the Code of Ethics.

Finding 4. Councilman Leary made threats through official law enforcement related electronic channels of communication to expose to the public a constituent's past.

Recommendation 4. Councilman Leary should refrain from using any official law- enforcement channel of communication to engage in any non law-enforcement related activity.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006:

- **The Elk Grove City Council. (1, 2, 3)**

The Grand Jury believes the public interest would be best served by, and residents of the City of Elk Grove deserve, a full and forthright response from Councilman Michael P. Leary to the Presiding Judge of the Sacramento Superior Court, and to the residents of Elk Grove.

- **Councilman Leary (1, 4)**

HEADSTONE DAMAGE AT FAIR OAKS CEMETERY DISTRICT

Issue

Are headstones and gravesites appropriately maintained by the Fair Oaks Cemetery District (FOCD)?

Reason for the Investigation

A complaint was received describing repeated damage to two family headstones over the course of several years at FOCD.

Method of Investigation

The Grand Jury interviewed:

- Complainant
- FOCD manager
- Attorney for FOCD

The Grand Jury conducted multiple visitations to the cemetery grounds reviewing:

- Plot maps
- Budget and financial records
- Existing complaint files

FOCD provided information on:

- Organization of FOCD
- Staffing
- Planned expansion
- Cemetery board policies, rules and regulations

Background and Facts

The FOCD was investigated by the 1992-1993 Grand Jury. The investigation concerned different issues than the current investigation. The materials, interviews and physical inspections provided to the 2005-2006 Grand Jury demonstrate that the FOCD has implemented the recommendations made by the 1992-1993 Grand Jury.

The cemetery appears to generally be well maintained. However, the mix of headstones and flat markers throughout the cemetery creates a challenge for moving equipment to dig new graves, mow the grass and maintain the area. The cemetery is land-locked, and there are no funds to purchase additional land; the cemetery must make maximum use of its available area.

The area about which this Grand Jury received a complaint is located adjacent to a former road (see attached map). In 2003, FOCD closed the road, removed the pavement, planted grass and converted the area to gravesites. As the gravesites in the former roadbed have been used and new headstones and markers installed, access throughout the area has become more difficult. Equipment must be driven around headstones and over flat mounted markers, including markers in areas that previously had not been disturbed. Materials used in flat markers are usually not strong enough to support equipment; so unless covers are placed over them for protection to spread the weight of the equipment over a wider area, they are subject to damage, especially in wet weather.

FOCD confirms the flat markers on the gravesites in question were damaged several times. The FOCD has repaired these markers each time. At the time of the Grand Jury's first visit to the cemetery, the markers were out for repair. They were reinstalled by the time of a second visit, about a month later. FOCD does not maintain a record of damages and repairs to markers and headstones, but stated damage does occur and the district makes necessary repairs.

FOCD stated that within the last year they have started to utilize plywood sheeting, artificial turf, sandbags and fine earth to cover and protect flat mounted markers that must be traversed. These measures, while lessening the chances of damage to the flat markers, may not fully protect them from damage, especially in wet weather when the ground is soft and subject to rutting.

Findings and Recommendations

Finding 1. The Grand Jury finds repeated damage has occurred to the markers at the sites referred to in the original complaint. No evidence was found that this type of damage is widespread or common. Damage to the specific plots resulted from the following:

- Nature of the materials used for the grave markers in question
- Cemetery need for access to newly created gravesites, accessible only across areas of established graves
- Equipment may scrape monuments and/or run over markers as maneuvered through narrow areas

Recommendation 1. The Grand Jury recommends FOCD evaluate additional materials and strategies to prevent damage to markers, and to avoid the appearance of neglect while markers are being repaired. These strategies might include use of artificial turf or other soft materials to shield and protect the flat markers under plywood sheeting; prompt grading of ruts and trampled areas and installation of turf instead of waiting for new grass to grow; and rental (or purchase) of lightweight excavation equipment for access to congested areas.

Finding 2. Certain marker materials are only suitable for placement flush to the ground. They are susceptible to cracking or chipping when weight is placed upon them. These materials may be too thin to be converted to vertical monuments.

Recommendation 2. When markers are damaged in the course of maintenance, FOCD should, with the permission of the families involved, explore replacing them with markers more suited to the maintenance issues faced in the area where they are placed. All future sales contracts should specify the use of suitable marker materials.

Finding 3. FOCD does not maintain a documented complaint file. FOCD deals with families under emotional stress and when problems arise, misunderstanding can occur.

Recommendation 3. Rather than relying solely upon oral agreements to resolve problems, FOCD should continue its practice of personally resolving issues, while confirming and documenting such agreements. Copies of all correspondence should be retained.

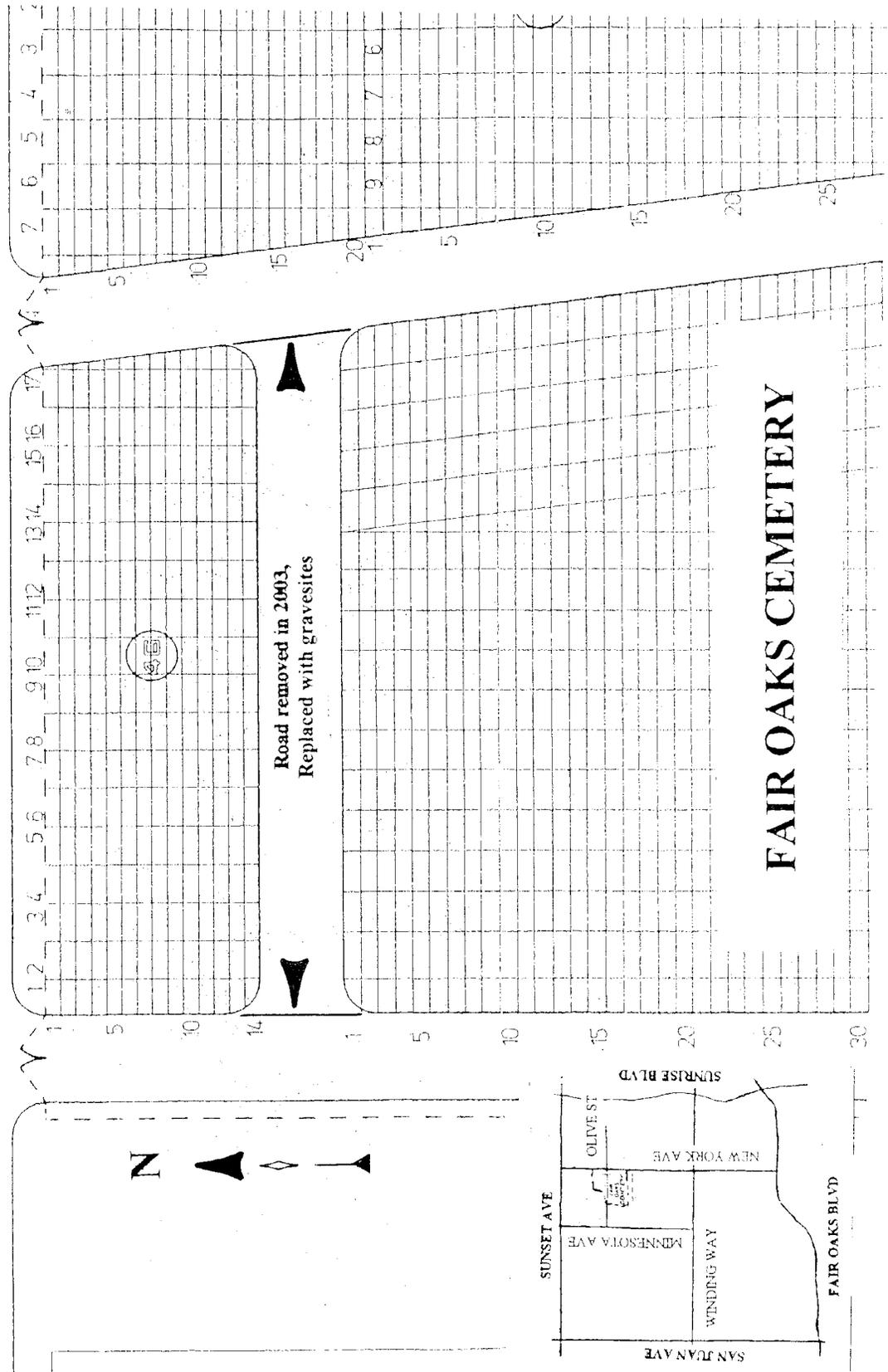
Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **FOCD Board of Directors**

OLIVE STREET

← To Minnesota Ave. To New York Ave. (600 ft) →



CITY OF ISLETON POLICE DEPARTMENT

Issue

Is the City of Isleton and its Police Department operating in compliance with standards for California peace officers under California Government Code sections 1029, 1030 and 1031? Is the Isleton Police Department in compliance with the Commission on Peace Officer Standards and Training Regulations, Title 11, California Code of Regulations, sections 1002 and 1010? ⁽¹⁾

Reason for the Investigation

A complaint was received by the Grand Jury from a citizen of Isleton, who reported receiving inappropriate treatment by member(s) of the Isleton Police Department.

Method of Investigation

The Grand Jury interviewed the following individuals:

- Complainant
- Executive Director of Peace Officer Standards and Training (POST)
- POST employees directly involved with certification of peace officers hired by the City of Isleton
- Chief of Police, City of Isleton
- Mayor, City of Isleton.

The Grand Jury made telephone inquiries to the Sacramento County Sheriff's Department and the Sacramento Police Traffic Enforcement Department to verify information obtained from the City of Isleton officials.

The Grand Jury also received and reviewed the following documents:

- POST memorandum dated February 22, 2005 regarding the Isleton Police Department
- Letter dated March 25, 2005 to POST from the Isleton Police Department
- California Government Code section 1029 - Conviction of a felony as a disqualification for peace officer
- California Government Code section 1030 – fingerprinting of police officers
- California Government Code section 1031 – public officers or employees having powers of peace officers, minimum standards
- POST regulation 1002 - Minimum standards for employment as a California Peace Officer
- POST regulation 1010 - Participation in the POST programs

(1) All regulations referred to hereafter are to Title 11, California Code of Regulations

Background and Facts

City of Isleton

The City of Isleton became a general law city in 1923. The present population of the city is approximately 850. There has been little growth within the city since 1975. Presently, there are plans for the development of new residential homes within the city in 2006. This development may help the city generate more revenue for community services.

The Isleton Police Department

The Isleton Police Department is currently staffed by the Chief of Police, four full-time peace officers and seven on-call reserve peace officers.

- Since 1990, the Department has had five chiefs of police. Their tenures have ranged from seven months to over three years.
- The Police Department's annual budget is \$327,000. Seventy percent is designated for wages and fifteen percent for officer training. An additional fifteen percent is designated for everyday operation of the department.
- No officer has resigned or been terminated since November 2004.
- The pay rate for full-time City of Isleton peace officers is \$16-18 per hour, plus medical and dental benefits. Efforts are being made to make retirement benefits available through the California Public Employees Retirement System. Funding for this is an issue.
- Some officers recently received 20 hours of Driving Under the Influence training from the Sacramento Police Department.

Post Compliance Issues

On May 12, 1975 the Isleton City Council enacted Ordinance 228, which stated:

“Pursuant to Section 13522 of the California Penal Code, the City of Isleton will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training.”

Since the passage of this ordinance, POST staff has documented a 12 year (January 11, 1993-February 11, 2005) history of non-compliance by the Isleton Police Department. All efforts by POST to assist this police department to keep current and in compliance have failed.

On March 11, 2004 the Isleton Police Department withdrew from the POST program.

A basic failure of the Isleton Police Department has been its inability or unwillingness to provide complete background investigation packages on all individuals appointed as peace officers in its jurisdiction. Officers were hired after the contract background investigator recommended against hiring, including the current chief of police. The city manager, who is the hiring authority, did not respond to repeated attempts by POST to discuss this problem.

Current issues facing the Isleton Police Department are all related to non-compliance and are not unprecedented. POST staff has conducted a study of compliance reviews dating back to 1992. At that time, the acting chief of police was admonished to complete all background checks and to notify POST of new peace officer appointments. In every compliance review by POST since 1993 there have been deficiencies noted in these areas.

Revocation of Isleton City Police Department Privileges by POST

A 2004 POST review of Isleton Police Department personnel files determined the following:

- Improperly submitted notices of peace officer appointments
- Peace officer appointments made prior to the satisfaction of selection standards and procedures
- Incomplete background investigations
- Missing criminal history inquiries or responses
- Insufficient documentation to demonstrate compliance of peace officer training standards and requirements necessary to support the peace officer appointments

As a result of these continuing deficiencies, POST took the following actions:

- The Isleton Police Department personnel were precluded from access to the Electronic Data Interchange System (EDI).
- The Isleton Police Department personnel were suspended from participation in POST programs.
- Reimbursement and participation in POST programs and services by Isleton Police Department personnel were suspended.

California Penal Code section 13523 and POST regulation 1010 (c) require adherence to applicable law and regulation as a condition of eligibility for participation in the POST programs. As a result of continued non-compliance, POST suspended the Isleton Police Department from further participation, effective August 11, 2004.

Findings and Recommendations

Finding 1. The City of Isleton and the Isleton Police Department have a long history of non-compliance with California law and POST regulations in the selection and appointment of peace officers. If the City of Isleton intends to continue to operate its own police department, the citizens of Isleton deserve to have POST-qualified, properly trained police officers.

Recommendation 1. The City of Isleton, through its city council and city manager, should take all steps necessary to rectify its non-compliance issues with POST in the selection of police officers. The city council and chief of police should ask for and accept professional assistance from other local law enforcement agencies in securing POST accepted training for its regular and reserve police officers.

The Grand Jury recommends all future background investigations for the Isleton Police Department be assigned to a specific employee who must:

- be a full time or retired sworn peace officer
- be qualified by a POST accredited training facility in ‘background investigations’
- have direct responsibility to maintain and update personnel files of regular and reserve police officers as related to POST training
- be responsible for all required training, and verification to POST upon completion of training
- have the attention of the chief and city manager with respect to recommendations made.

Finding 2. The Grand Jury finds Isleton citizens and visitors have had unfavorable contact with Isleton police officers. The Grand Jury finds that this is due to the employment of unqualified peace officers and their lack of professional training.

Recommendation 2. Since the City of Isleton does not have a wage and benefit package that allows it to compete in a small city market for well-qualified police officers, the city should conduct a comprehensive evaluation of all costs relating to the operation and maintenance of its own police department as compared to contracting out for law enforcement services.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **Isleton City Mayor**
- **Isleton City Council**

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT SELECTION OF A RETIREMENT INCENTIVE PROGRAM

Issue

Did the Sacramento City Unified School District (SCUSD) Board of Education and administrative staff exercise appropriate oversight and review in the selection of a retirement incentive program at the conclusion of the 2003-2004 school year? What options were evaluated? What process did SCUSD use to determine the effectiveness of the selected plan? Did the promised savings materialize?

Reason for the Investigation

Capitol Weekly Corporation publishes monthly local newspapers distributed in Sacramento neighborhoods. An article in the June 2005 issue raised concerns about SCUSD and the adoption of the Public Agency Retirement System (PARS) retirement incentive program.

Method of Investigation

The Grand Jury interviewed the following individuals:

- SCUSD Superintendent
- SCUSD Chief Financial Officer (CFO) 2003-2004, retired
- SCUSD Chief Business Officer (CBO)
- SCUSD Associate Superintendent, Human Resource Services
- Associate Vice President, School Services of California, Inc.
- SCUSD Board of Education President
- SCUSD Board of Education President at the time of the tentative adoption of PARS (April 2004)

The Grand Jury reviewed the following documents:

- June 2005 Capitol Weekly publication
- Keenan and Associates January 21, 2004 Fiscal Cost Analysis proposal
- California Association of School Business Officials Journal, January/February 2004, "*Evaluating Retirement Incentives*"
- Agendas and minutes of SCUSD Board of Education meetings for 2004
- Back-up agenda documents for March 8, April 1, and June 3, 2004 Board of Education meetings
- PARS proposal dated March 11, 2004
- PARS analysis supporting March 11, 2004 proposal
- PARS enrollment documents

- Audio tape of the June 3, 2004 SCUSD Board of Education meeting
- June 25, 2004 memo to the Superintendent and the Board of Education from the CFO
- PARS analysis supporting June 25, 2004 summary report
- 2004-2005 SCUSD budget, actuals and revisions
- Vilfer and Associates November 2, 2004 investigation report on San Juan Unified School District and PARS
- Two memoranda from Lozano Smith Law Firm regarding PARS
- Letters dated November 3, 2005 and December 23, 2005 from SCUSD Superintendent to the Grand Jury, with supporting material
- 2004 PARS retirees list prepared by SCUSD Human Resources Department, January 2006
- Documents requested from the Chief Budget Officer, February 2006

Background and Facts

SCUSD faced a budget deficit of approximately \$26 million for the 2004-2005 school year. In October 2003, a district-wide budget committee of approximately 40 members began meeting on a regular basis to consider budget recommendations. Their report was presented to the Board of Education by the Chief Financial Officer at the March 8, 2004 special board meeting. One cost reduction option was a recommendation to investigate possible savings through early retirement incentive programs, targeted at \$2 million.

What is a retirement incentive program? The basic premise is to target near-retirement age employees at the top of the salary schedule, entice them to retire with a monetary incentive, and either not replace them, or replace them with employees at the bottom of the salary schedule. During the investigation, it was learned that an early retirement incentive should not be offered too frequently, as employees anticipate it and do not retire at predictable rates. SCUSD looked into the possibility of offering an early retirement incentive program with the following goals in mind:

- Achieve budget savings
- Reduce staffing and reorganize central office departments
- Reduce the number of potential employee layoffs
- Minimal classroom impact

The CFO began looking into retirement incentive program options before the March 8, 2004 presentation. The CFO represented to the Grand Jury that Keenan & Associates was asked to provide an analysis of the California State Teachers' Retirement System (CalSTRS) early retirement incentive program. Keenan's January 21, 2004 Fiscal Cost Analysis, a document in excess of 100 pages, outlines the Keenan Supplemental Employee Retirement Plan, CalSTRS AB 1207 2 + 2 plan, and AB 1207 2-year golden handshake plan. Assembly Bill 1207 (AB 1207) permits CalSTRS members to receive an additional two years of service credit, under certain conditions, for the "golden handshake" option. It also creates an early retirement incentive of two additional years of service credit and two years of age, "2 + 2", if certain conditions are met.

In January 2004, the Superintendent asked the CFO to look at Phase II Systems PARS, a vendor offering retirement incentive plans since 1983, with participation of over 260 public agencies. The initial PARS proposal was dated March 11, 2004.

The Grand Jury could not find any evidence that the board considered other options, such as obtaining similar savings through a combination of retirements and resignations through natural attrition, layoffs, and non-replacement of staff, or even creation of its own plan. For example, previously, the district offered a one-time \$10,000 retirement incentive. SCUSD was experiencing declining enrollment, especially at the elementary level, so non-replacement of teachers was anticipated.

What process did the district utilize to evaluate these options: STRS, Keenan, PARS, non-replacement combined with natural attrition, layoffs, or developing its own plan? The Grand Jury requested any written analysis available to the public, employee groups and the Board of Education; nothing was provided. The superintendent's November 3, 2005 letter states, "Staff put careful thought and effort into selecting the PARS program." District staff informed the Grand Jury that information was orally presented and discussion often took place in closed sessions with the Board of Education because of collective bargaining issues. The district did not provide any materials from closed session discussions.

PARS is the Selected Vendor

By March 19, 2004, letters to the Sacramento City Teacher's Association (SCTA) and United Professional Educators (UPE) indicated that the district was interested in offering a retirement incentive plan through PARS. Discussions over a mutually agreeable plan were needed quickly; eligible employees needed to be informed.

The PARS proposal was presented for the first time in public at the April 1, 2004 Board of Education regular meeting. The agenda item began at 10:05 p.m. and concluded at 10:25 p.m. The CFO explained that participation in PARS would be contingent upon meeting the minimum number of retirees and reasonable impact on the educational and operational objectives of the district. The Vice President of Consulting for Phase II Systems, administrator of PARS, provided a Power Point presentation for the board that included background information on the company and an overview of how the plan would work. This presentation did not include assumptions imbedded in the analysis by Phase II Systems, including the fact that the projected savings were predicated on the assumption that 20% of the teachers projected to elect early retirement would not be replaced. The minutes state that board discussion followed; however, no audio or video tapes were available for the meeting. The agenda item was moved from conference to action, and the vote was 5-1 in favor of preliminary participation in PARS.

In general, the plan provides employees with a lifetime annual benefit equal to 7% of final pay. For example, a teacher who earned \$64,094 per year would receive \$4,486.58 per year (\$373.88 per month), plus normal retirement pay from STRS. PARS estimated that, with 229 employees participating, \$2.6 million net in first year savings would be realized. Over a five year period, PARS projected approximately \$6.7 million would be saved.

Ironically, at the same April 1, 2004 board meeting, an earlier agenda item was a resolution to terminate the operating agreement between SCUSD and the California Administrative Services Authority (CASA). CASA is a joint powers agreement that established an alternative retirement program for a select group of employees. Participation was purported to be cost neutral to SCUSD, but in fact became a liability to the district. The 2003-2004 Grand Jury report (www.sacgrandjury.org) includes a lengthy investigation which concluded SCUSD was negligent in the establishment and oversight of CASA. The district's failures in the CASA retirement program were widely reported in the media. It would have been expected that the district be especially careful in analyzing PARS.

Evaluating PARS

The PARS proposal relied on data supplied by the district, which included current employee census data, salary information, estimated retirements and district benefit costs. PARS proposed savings based on several assumptions, including savings from non-replacement of positions. Due to declining enrollment, some positions would not be replaced in the 2004-05 school year; these were already factored into the proposed budget compiled by the district. If PARS and the district both include the same non-replacement numbers, it would result in double counting of projected savings.

The Superintendent asked the CFO to contact School Services of California to review the PARS proposal. SCUSD has an agreement with School Services for consulting on financial issues. The district and School Services differ in how they characterize the extent of the review requested. The School Services representative spent approximately 1 ½ hours at the district, with several follow-up phone calls. He spotted the double counting of non-replacement positions. School Services was familiar with this issue because San Juan Unified School District (SJUSD) was also exploring the PARS program and School Services had done an analysis for them. No written record or report was requested or provided for SCUSD from this review by School Services of California.

The estimated savings projected by PARS varied widely at each meeting and in each memo. At the June 3, 2004 Board of Education meeting, the board unanimously authorized participation in PARS. The back-up information packet provided prior to the meeting for this agenda item reads, "PARS estimates that approximately \$1.37 million in first year savings will be realized if projected retirements are realized: 210 certificated; 18 certificated administrators, and 1 classified manager. The exact number of retirees interested in the PARS program will be available by the time of the board meeting and actual savings calculations will be presented." At the meeting, the PARS representative reported the final number of participants was 244; projected first year savings was increased to approximately \$2.1 million; the five year cumulative total savings was projected at \$2.78 million. No explanation was given for the substantial change in the savings projections. The actual number of retirees went from 229 to 244 and the first year savings from \$1.37 million to \$2.1 million; the five year savings from \$6.7 million to \$2.78 million. Each person interviewed was asked how this happened; no one could explain the variation. The Grand Jury was told that even a savings as low as \$1.37 million was acceptable. An audio tape of this meeting was reviewed. One board member started to question the difference in the savings figures, and was asked to hold the question to the subsequent

agenda item, which included the presentation by the PARS representative. PARS stated the \$2.1 million figure was the savings for the actual retirees, and no further questions were asked by board members.

Other concerns about the PARS proposal:

- PARS used a 7% benefit payout whereas the January, 2004 Keenan proposal used 5%. There is no analysis showing that the district was obligated to offer 7%. All PARS documents provided to the Grand Jury were consistent with the 7% benefit payout figure. The PARS commission was 5.5% of the total cost. PARS had an incentive to offer a higher benefit for the higher fees. The district could not provide any more information about the benefit level, except to say it was part of the negotiations with staff, and the PARS program was a complete package.
- There was no minimum number of years served in the SCUSD required to qualify for this lifetime benefit. Four management employees retired with this benefit after being with the district only 2-4 years.
- The CFO, Legal Counsel, Director of Employee Relations, and Executive Director of SCTA, presumably key managers sponsoring or reviewing early retirement incentive programs, all retired under the PARS plan.

The district provided only one memo concerning projected savings, a one page June 25, 2004 memo from the CFO to the Board of Education and the superintendent stating that the calculation of savings from PARS would be \$2.6 million, factoring in longevity pay for more senior employees that were not included in the earlier calculations. Supporting this memo was the last PARS analysis given to the Grand Jury, also dated June 25, 2004. The PARS analysis used to estimate the cost impact of retirements had two sets of calculations for each of three groups of employees. The first set estimated costs if the program were adopted. The second set estimated costs if the program were not adopted. These were then compared to arrive at the benefit or cost of the program. The assumptions for these analyses were generally the same, except imbedded deep in the comparisons was the premise that 14 more positions would be eliminated if the program were adopted. The final savings, despite the earlier correction for double counting, returned to the original \$2.6 million figure. What savings are related to the 14 positions? Were these differences in assumptions ever brought to the attention of the superintendent or the board?

PARS and the San Juan Unified School District

At the same time SCUSD was considering adopting PARS, SJUSD adopted participation in PARS. SJUSD faced huge budget deficits, declining enrollment, and a desire to avoid lay-offs. The issue of double counting was identified by School Services of California while doing a review requested by SJUSD. As issues were raised about participation in PARS, SJUSD conducted an internal fact finding investigation. They subsequently hired an outside independent investigator, Vilfer and Associates, to determine the facts involved in participating in the PARS program. The report dated November 2, 2004 is available on-line at www.sanjuan.edu/news/documents/vilfer-pars-report-11-2004.

Although SCUSD could not have been aware of the SJUSD investigation results at the time they were looking into PARS, some of the issues SCUSD faced were somewhat similar. Vilfer findings for SJUSD include:

- There was great confusion among SJUSD employees and board members involved in assessing PARS.
- PARS continued to represent savings in spite of knowing savings from non-replacement had been included in SJUSD budget cuts.
- The use of PARS cost the district significantly more than taking the same action without PARS.
- PARS represented that a 7% benefit level was common, while the investigation determined that lower percentages are more common.

Anticipated PARS Savings

Did PARS deliver for SCUSD? The question was asked of every person interviewed for this report. The superintendent's November 3, 2005 letter to the Grand Jury states, "We believe the PARS program is working appropriately." A similar comment was included in the superintendent's December 23, 2005 letter to the Grand Jury.

It appears, however, that no one could know the answer to this question, since no financial analysis had been done. It was generally assumed by the staff that the program worked because the 2004-05 operating results were within budget. Finally, after repeated inquiries, the district staff in February, 2006, responded with a one page document, "PARS Summary for 2004-2005", showing savings of approximately \$2 million, instead of the projected \$2.6 million. If this lower savings figure were correct, then does that mean years 2-5 in the projections by PARS are also too low? No analysis was provided.

The district, in the first year, paid \$3,771,102 to PARS to accomplish this net savings, and will pay \$18,855,510 over five years. Included in the \$18,855,510 cost to the district is the Phase II Systems/PARS total commission of \$1,037,000 from this contract.

The following chart represents a re-cap of the data outlined in this report:

MOVING TARGET OF PROJECTED SAVINGS (in millions)

<u>Date</u>	<u>Source</u>	<u>First year</u>	<u>Cumulative Five years</u>
April 1, 2004	Board minutes	\$2.6	\$6.7
June 3, 2004	Board agenda back-up	\$1.37	not stated
June 3, 2004	Board minutes & audio tape	\$2.1	\$2.78
June 25, 2004	Staff memo	\$2.6	\$4.02
February 14, 2006	CBO response to Grand Jury	\$2.01	not calculated

Findings and Recommendations

Finding 1. No written comparative analysis of retirement incentive options was prepared for the public, staff or the Board of Education.

Recommendation 1. On matters of significant cost, detailed analyses should be in writing, rather than oral summaries.

Finding 2. Staff could not provide the Grand Jury with documentation that the Board of Education received clearly understandable written information outlining the assumptions underlying the PARS proposal.

Recommendation 2. Written key assumptions underlying major decisions should be presented to the Board of Education.

Finding 3. Too much reliance for financial analysis was placed on the representations of the vendor (PARS). There was no independent financial review of the PARS assumptions or numbers before or after the program was selected.

Recommendation 3. A detailed process should be adopted for independent financial review by appropriate district personnel, or outside consultants, prior to action on matters of significant expense. Matters of this magnitude should be the work product of a multi-discipline team. Matters brought by outside interests who have a significant financial interest require independent evaluation.

Finding 4. No analysis was done by the district to determine the effectiveness of the program in relation to the stated goal of saving \$2.6 million in the first year.

Recommendation 4. Standards need to be developed by the district for a timely evaluation of the financial impact of major expenditures. PARS savings need to be identified for years 2-5.

Finding 5. District staff and the Board of Education did not take adequate steps to ensure confidence in the process used in adopting the PARS program. In light of the failure of CASA for SCUSD, the district should have been especially careful in entering into another retirement related program.

Recommendation 5. District staff and the Board of Education need to put policies and procedures in place to ensure accountability when using public monies. The district needs to be more open in its business transactions.

Finding 6. Board of Education meetings are currently video taped, but the tapes are only retained by the Sacramento Public Library for 60 days.

Recommendation 6. SCUSD should retain video tapes for three years or longer.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **Superintendent, Sacramento City Unified School District**
- **Board of Education, Sacramento City Unified School District**

FLOOD DISASTER EVACUATION OF THE MEDICALLY INFIRM

Issue

In the event of a mass evacuation due to a flood disaster, what provisions are in place or in the planning stage for the special needs of the medically or mentally infirm due to age or disability?

Reason for the Investigation

The recent flood disaster in the City of New Orleans due to hurricane Katrina has heightened the nation's sensitivity to the vulnerability and readiness for such an event in other locations of the country. Many experts agree that the County of Sacramento, located at the foothills of the Sierra Nevada, with its confluent rivers, levees and dams is as, or more, prone to a major flood than the City of New Orleans, and may have the greatest flood risk of any major city in the nation. Our community must be prepared for a mass evacuation of residents of the county, including the medically or mentally infirm due to age or disability.

Method of Investigation

The following officials were interviewed:

- Sacramento County Sheriff's Department
 - Sheriff
 - Undersheriff
 - Chief Deputy Sheriff
 - Assistant Sheriff
 - Emergency Operations Office
 - Emergency Operations Coordinator
 - Interim Emergency Operations Coordinator
 - Administrative Services Officer II
 - Special Operations Division
 - Commander, Volunteer Services Bureau
- Sacramento County Department of Health & Human Services
 - Deputy Health Officer
 - Emergency Operations Coordinator
- Sacramento County Department of Human Assistance
 - Care & Shelter Operations
 - Emergency Response Coordinator
- Sacramento City Police Department
 - Office of Emergency Services
 - Captain, Homeland Security

The following documents, charts and manuals were consulted:

- Inland Region Mass Evacuation System Operations Manual
- County of Sacramento All-Hazards Emergency Operations Plan
- Sacramento County Department of Health and Human Services
 - Emergency Operations Plan
 - Emergency Communications Manual
 - Public Health Preparedness and Response Plan
 - Senior and Adult Services Division Disaster Plan
- Statement of Understanding between the County of Sacramento, the City of Sacramento, and the American Red Cross
- Care and Shelter Plan, a Joint Operational Plan of the Sacramento County Department of Human Assistance and the City of Sacramento Neighborhoods, Planning and Development Services Department

Background and Facts

Summary Overview of Mass Evacuation Preparedness

The primary level of preparedness in the event of a disaster due to a major flood or other cause is the county, or “operational area.” The term “operational area” herein is synonymous with “county” and, unless the context clearly indicates otherwise, refers specifically to the territory within the geographical boundaries of the County of Sacramento. The operational area is responsible for the coordination of resources of all political subdivisions and private agencies within its territory in the event of a mass evacuation due to flood. This function is overseen by the Emergency Operations Office (EOO), and is based on the county’s All-Hazards Emergency Operations Plan. The plan is 80% complete. The detailed Flood Annex to the plan is projected for completion by September 2006.

The All-Hazards Plan defines and coordinates the roles and responsibilities of the various departments of the county during an emergency including, but not limited to, the Department of Health and Human Services (public health), the Department of Human Assistance (care and shelter), the Department of Water Resources (dimensions, projection of flow), and the Sheriff’s Department (evacuation, law enforcement). Each of these departments is charged with the development of standard operating procedures prescribing the detailed implementation of their respective duties.

Hence, the Sheriff’s Department is charged with the development of standard operating procedures in response to a mass evacuation due to a flood disaster. Such a detailed plan would, for example, prescribe the implementation of evacuation procedures, including traffic, designation of probable evacuation routes, contra-flow, transportation, importation of emergency supplies, and so on, in light of the nature, location and dimensions of the event. The sheriff would not be operating alone on these matters, but in coordination with other law enforcement agencies, including the California Highway Patrol, as well as the California Department of Transportation (CalTrans). The sheriff, who would order an evacuation, is also responsible for the communication of the order by way of door-to-door contact, prime media outlet, emergency alert system, phone banks and “reverse 911” (automatic telephone warning system).

These standard operating procedures have not yet been fully developed by the Sheriff's Department. It is projected, however, that an initial draft of a "well organized procedure" will be developed by the sheriff, in conjunction with other pertinent agencies noted above, and presented for further review and refinement by August 2006. It is acknowledged that the most difficult aspect of the project will concern the special needs populations.

The next level of preparedness, in the event of a disaster which transcends county lines, is the region, consisting of eleven counties, known as the Inland Region of California, or Region IV. (See attachment A.) Preparedness at this level is based on the Regional Plan. This plan is a response to the movement of large numbers of persons from one operational area to another, which a single operational area or a group of operational areas acting independently could not handle effectively.

The Regional Plan is activated by a notification call-out by the Governor's Office of Emergency Services (OES). Once activated, the responsibilities of each operational area are:

- Make the decision to evacuate residents
- Provide initial warning and instructions to evacuees
- Manage evacuee movement onto major evacuation corridors leading out of the operational area
- Support shelter operations within the operational area
- Manage the return of evacuees into the operational area

Joint regional responsibilities would include:

- Assist evacuee movement along major evacuation corridors from one operational area to another
- Manage shelter operations in the host operational area(s)
- Provide shelter information and instructions to evacuees

The Regional Plan also involves coordination with state agencies, such as the Department of Transportation, the California Highway Patrol, the Department of Social Services, among others, and with private agencies such as the American Red Cross (ARC), among others, all of which are planning partners with the operational areas. OES is studying the Regional Plan for Region IV as a possible model for other regions.

The development of the Regional Plan has been impaired by a lack of priority interest at the state level. However, since the Katrina disaster, the state has taken an active role in the planning process. The Regional Plan will become official when approved by all participating agencies.

The availability of sufficient resources has been impaired by a combination of circumstances, including the war effort, the needs of the homeland security effort, and the loss of local military bases.

The task of evacuating all or a significant portion of a major metropolitan area is both enormous and complex. The highways, with all lanes dedicated to outward flow, would still be impacted with vehicles, hampering the ingress of emergency services and supplies. It is estimated that 90% of evacuees would find shelter with friends or relatives within the regional area. However,

10% would need medical care, food and shelter. The larger the event, the larger the percent in need. Where, and by what means, would the county transport, care for, feed and shelter 10,000 to 30,000 or more people?

EOO has entered into an agreement with Regional Transit to provide a number of busses, depending upon circumstances and availability, and with Para-transit. The National Guard would require a minimum of 48 hours to mobilize its transit vehicles.

Evacuation Control and Assistance Points

Each operational area maintains an Emergency Operations Center (EOC) which is activated in the event of a major emergency. An EOC is a local government facility staffed by representatives of support systems who establish policy and coordinate services during an emergency. A joint EOC is maintained by the county and the City of Sacramento. Where the Regional Plan is activated, the systems are coordinated by a Regional Emergency Operations Center (REOC).

Among other responsibilities, an EOC or REOC as the case may be, would establish certain evacuation control and assistance points at pre-planned locations along the evacuation routes. Essential services to evacuees, as seen in Attachment B, would include the following:

- Maintenance of traffic flow, including towing of stalled vehicles and law enforcement
- Control of traffic entering evacuating operational areas
- Provision of shelter information and basic directions to evacuees
- Provision of emergency fuel or transportation to evacuees
- Provision of emergency medical services, including transportation services utilizing appropriate ambulance, bus and van resources

It is not contemplated that medical services beyond emergency first aid would be provided. However, a directions adviser would be available to provide information to special needs people as to the location of in-kind medical facilities. Limited transportation services would be available by ambulance, bus or van.

Care for Special Needs of Mentally or Physically Disabled

Within the overall context of a mass evacuation, and adding to its complexity, the county would be concerned with those special needs populations which are unable to participate in the evacuation process without assistance, such as the poor, persons who lack means of transportation, and those whose mobility is impaired by old age or physical or mental disability. We focus here on the special needs of the physically or mentally disabled of any age.

Identification and Tracking of Special Needs Populations

Unless individuals with special needs can be identified and located at the outset of an emergency, they will remain extremely vulnerable in the event of a major flood or other disaster. Unfortunately, the goal of identifying and locating every such person at any given time is illusory, since the data are in a constant state of flux. Tragically, even if the identification and

location of every such person were known, it is unlikely there would be enough lead time or resources to reach everyone.

Some effort has been made to locate and map the places where certain groups congregate. For example, many homeless individuals congregate at known locations, such as Loaves and Fishes, where food and care for the homeless are provided. Similarly, many persons who are mentally disabled and not institutionalized may be found at group homes, self help centers, integrated services agencies such as Turning Point, regional support teams such as El Hogar, Visions, and others, and neighborhood service agencies such as Del Paso Neighborhood Service Agency, Oak Park Multi-service Center, and the like.

With respect to the physically disabled who are not institutionalized, and who, like the mentally disabled, may live at home or independently, a database of client providers for various special needs clientele (e.g., dialysis patients, persons reliant upon oxygen, insulin or life support systems, the deaf, the blind, among many other special needs groups), which maintain telephone and address information, should be maintained by EOO. Such a database would enable EOO to warn client providers to alert their clients, or to secure direct access to lists of client locations.

EOO maintains a Geographic Information System that maps the location of nursing homes, assisted living and congregate care facilities in the county. However, there are more than 500 board and care facilities and small scale adult day health care centers in the operational area that are not on the county's radar. Many of these could be identified through their state licensing and certification agencies.

Assuming that all of these locations were identified, it is clear that, for purposes of transporting special needs individuals from shut-in locations to any point of safety, or from a general population shelter to an appropriate medical facility, or from an evacuation control and assistance point to an in-kind facility, the county lacks adequate access, in the event of a major flood disaster, to emergency-ready specialized transportation vehicles, wheelchair and gurney capable, and fully equipped with essential medical supplies and modalities.

Full scale hospitals and institutions have established evacuation plans. This is not true of many smaller scale entities that care for the medically fragile, such as skilled nursing facilities, board and care facilities, and home health and hospice agencies, which appear to be largely untrained and unprepared to evacuate their clients to distant points.

Existing databases of client information, including names and locations, should be immediately accessible by EOO in the event of a mass evacuation.

Confidentiality of Client Information

It is understood that there is considerable concern on the part of some providers that the disclosure of such information might conflict with the "Privacy Rule" component of The Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Rule against disclosure applies to all individually identifiable health information that is created or received by a covered provider, including genetic tests and information about an individual's family history. Assuming

that an individual's telephone number and address would constitute "identifiable health information," the Grand Jury has learned, through the auspices of the United States Congress and by its own research, that the Rule would not apply in the event of an imminent and serious threat to health and safety. Specifically, the Code of Federal Regulations provides:

"A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure: ... (A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat ..." (45 CFR 164.512(j); and cf., Congressional Research Service reports RS20500, March 10, 2004 and RL30620, June 14, 2001).

Accordingly, EOO should, by maintaining a database of client providers, have the capability of immediately notifying such providers to:

- contact their clients and advise them, and provide assistance to reach safety
- contact persons listed as emergency contacts who have agreed to assist specified individuals in such an event
- immediately transfer such client or contact telephone and address information to EOO or other specified emergency service, such as ambulance, fire or rescue.

Sacramento County Department of Health and Human Services

The County Department of Health and Human Services (DHHS), through its Public Health Risk Communication Plan, is capable of communicating with certain segments of the disabled population through contact points such as senior centers, regional centers for the developmentally disabled, and home health care agencies that provide at-home hospital and hospice care.

DHHS has two primary responsibilities in the event of a mass evacuation. The first is focused on the department's own clientele: the beneficiaries of the In-Home Support Services, Adult Protective Services, and Public Guardian/Conservator programs. Acting through its EOC representatives and Adult Placement and Relocation Task Force, DHHS would provide information as to the scope, magnitude, and geographic areas of the disaster and the names of the clients that may need to be contacted; identify placement resources for various levels of needed care, including board and care, acute care, and skilled nursing facilities; and triage evacuees according to placement needs. Other staff would identify and contact those clients most vulnerable and residing in the disaster area, coordinate or assist evacuees with needed disaster and post-disaster services, and help with relocation and placement.

The second responsibility of DHHS would be to assist with emergency shelter triage and care, and with disaster relief for other evacuees, as directed by EOC or department managers. DHHS staff would not be engaged in search, rescue or evacuation efforts. At shelters, staff may assist with a variety of activities including assessment of evacuees in terms of the level of care needed, identification of resources available to evacuees, identification of special needs such as medication or treatment, and identification of placement needs. DHHS public health nurses may

be assigned by the health officer to report to shelters or to assist ARC in disaster relief. In addition to medical aid, public health nurses would assume such responsibilities as communicable disease control, medical triage, and liaison with the medical community. However, the identification of special needs individuals in a shelter would be reported to EOC for specialized placement.

For purposes of emergency placement of persons with special needs, DHHS must complete its identification of local hospital surge capacities under the various circumstances of a flood disaster, and provide for alternative care sites for the medical needs of such persons who do not require hospitalization.

Sacramento County Department of Human Assistance

The development and operation of mass evacuation shelters, such as schools and community centers, are the responsibility of the County Department of Human Assistance (DHA) and the City of Sacramento Neighborhoods, Planning and Development Services Department (NPDS), in coordination with ARC. Essentially, NPDS and ARC are responsible for the designation of, and confirmation agreements for, shelter sites and for facilitating the opening and closing of site facilities, and providing on-going logistical support. DHA provides trained managers and staff for the initial start up of the shelters, until ARC assumes its operational responsibilities within an estimated 48 hours. DHA emergency response teams (ERTs) would provide for the emergency care and shelter of evacuees, referrals to other support services, and shelter intake registrations and exit interviews. While DHA will have mental health counselors to assist the general public, persons who require comprehensive care, medical, or mental health services, would not be accommodated in general population centers. In the event that specialized care were required by a person in a shelter, a staff member would make a request to the Health Services Branch at the EOC for resolution.

Medical Reserve Corps

The Sacramento Regional Medical Reserve Corps is an organization of more than 200 volunteers sponsored by the Sacramento County Sheriff's Department to supplement local medical resources which may become overwhelmed in an emergency. There are currently 8 medical reserve teams, each consisting of 2 physicians, 6 nurses, 6 medical support, and 6 non-medical support personnel. A medical team may be called to assist in surge capacity at a local hospital, set up a casualty collection point to triage for movement into an emergency room, assist a local public health agency in mass prophylaxis operations, assist local emergency medical services and other emergency response agencies, or assist at a shelter, including a specially constituted shelter for medically fragile victims. ARC in coordination with 50 community faith-based leaders is contemplating the development of such a specialized facility.

Similar teams of federal volunteers from other regions may also be mobilized, but might not be on the scene for more than 72 hours.

Disaster Services Workers

A potentially substantial source of human resources that can be immediately called upon is the employees of the county, cities and other government entities within the county, who are prescribed by law and subject to service as disaster service workers. The legal framework for such a program has existed for many years. Specifically, the law provides:

“. . . the protection of the health and safety and preservation of lives and property of the people of the state from the effects of natural, man-made, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and resources is of paramount state importance requiring the responsible efforts of public and private agencies and individual citizens. In furtherance of the exercise of the police power of the state in protection of its citizens and resources, all public employees are hereby declared to be disaster services workers subject to such disaster service activities as may be assigned to them by their supervisors or by law.” (Govt. Code §3100; and cf., County Code of Ordinances §2.46.130.B2, and City of Sacramento Ordinance No. 81.022, Ch. 2.116.)

“For purposes of this chapter the term ‘disaster service worker’ includes all public employees . . . The term ‘public employees’ includes all persons employed by the state or any county, city, city and county, state agency, or public district . . .” (Ibid, §3101.)

The California Code of Regulations prescribes the various classifications and general duties of disaster service workers who would be assigned to areas of their own competence, including among many others: food, clothing, shelter, transportation, medical assistance, search and rescue, and so on. (California Code of Regulations, Title 19, §2572.1.) Hence, county and city employees may be assigned to perform disaster activities for other offices or outstations, ARC shelter facilities, a department command center, EOC, evacuation control and assistance points or other facilities providing services to disaster victims. What is lacking, however, is pre-mobilization planning, including identification of employees with needed competencies, and training and exercises for such participation in times of need.

Conclusions and Observations

The county is at the mid-planning and preparation stage for evacuation, care and shelter due to a major flood or other disaster. While much has been done and recognized, much more must be accomplished. The task is enormous and multi-faceted. With respect to medically infirm special needs populations, total reliance on government entities and services is misplaced. By virtue of the sheer number of such populations, the number of individuals within such populations, and their broad and varied needs, the county does not have the resources to identify, track, and care for the needs of all, or perhaps even most of them, in a major emergency. Private agencies, and particularly the client providers of each special needs group, must be prepared to identify, track, advise, direct, and assist their clientele in a major emergency evacuation. Pre-enrolled individual contacts who have agreed to assist a specified disabled person in such an event may be summoned for assistance.

Finally, the key to a well organized, efficient mass evacuation is the cooperation and participation of an educated population. The county has not undertaken a major effort to at least apprise, and possibly engage, the general public in its planning process for such an event. Such an effort would include the promotion of effective personal, household, and neighborhood plans for mutual assistance, particularly with respect to persons with special needs.

Findings and Recommendations

Finding 1. The Flood Annex to the county's All-Hazards Emergency Operations Plan is projected for completion by September 2006.

Recommendation 1. The county must make the completion of the Flood Annex to its All-Hazards Emergency Operations Plan a matter of high priority.

Finding 2. The Sheriff's Department has not fully developed standard operating procedures for a mass evacuation due to a flood disaster.

Recommendation 2. The Sheriff's Department should, by August 2006, complete the development of standard operating procedures for a mass evacuation due to a flood disaster. This should include plans for the evacuation of the medically or mentally infirm due to age or disability.

Finding 3. While the county has established a Geographic Information System that maps the location of nursing homes, assisted living and congregate care facilities within the county, it lacks adequate means of identifying and locating most of the special needs populations in the event of a flood disaster.

Recommendation 3. The county should develop and maintain a comprehensive database for the location and telephone numbers of skilled nursing facilities, assisted living facilities, board and care facilities, home health care and hospice agencies, senior centers, veterans homes, group homes for the mentally ill, client providers for persons with identified special needs, and other congregate care facilities, including numerous state licensed small scale adult day health care centers, in order to facilitate emergency communication directly or through such agencies in the event of a flood. For this purpose, each such provider or facility should be required to maintain a current list of client telephone numbers and addresses.

Finding 4. The "Privacy Rule" component of the Health Insurance Portability and Accountability Act of 1996 is deemed by many to constitute a barrier to the sharing of lists of client names, locations and telephone numbers to county or other emergency officials under any circumstances.

Recommendation 4. The county should secure and distribute to all pertinent public and private agencies a formal opinion of the Sacramento County Counsel and/or the Attorney General on the effect of HIPAA upon the sharing of lists of such information in the event of an imminent disaster.

Finding 5. The county has not established a full partnership of private care facilities and agencies for the evacuation of special needs clients in the event of a flood disaster.

Recommendation 5. The county should require training for managers and staff of private care facilities and agencies, along with formalized agreements specifying the roles and responsibilities of such facilities and agencies in the event of a flood.

Finding 6. The county lacks adequate access to fully staffed emergency-ready specialized transportation vehicles, wheelchair and gurney capable, and fully supplied with oxygen, insulin and other essential medicines.

Recommendation 6. The county should secure or contract for immediate access to a determined number of emergency ready, fully staffed and equipped specialized transportation vehicles, for the transportation of persons with special needs to appropriate shelters or in-kind facilities within the region.

Finding 7. The county has not fully identified the local hospital surge capacity under various circumstances of a flood disaster, which could impede access to one or more of those facilities.

Recommendation 7. The county should identify the local hospital surge capacity under various circumstances of a flood disaster, and provide for alternate care sites for special needs persons who might otherwise require hospitalization.

Finding 8. While the county has provided for mass shelters for general population evacuees, these shelters would not have the ability to provide for special needs persons who are medically or mentally infirm due to age or disability.

Recommendation 8. The county should provide, reserve, staff, and equip one or more shelters for the special needs of the medically or mentally infirm due to age or disability.

Finding 9. The county has not engaged in comprehensive pre-mobilization planning, training, or exercises for the participation of county, city and other local agency employees in mitigation and relief efforts in the event of a major emergency evacuation.

Recommendation 9. County, city, and other local agency employees are designated by law as disaster services workers, and may be assigned to such efforts, including evacuation and care of the special needs populations, in the event of a major emergency evacuation. Those who are able and competent to do so should be identified, organized and trained in advance of a major emergency.

Finding 10. The county has not engaged in a comprehensive public education program for the promotion of effective personal, household, and neighborhood plans for self-help and mutual assistance, with particular regard to persons with special needs, in the event of a major emergency evacuation.

Recommendation 10. The county should refocus its efforts on public awareness, education, and promotion of effective personal, household, and local community plans for self-help and mutual assistance that would include the designation of contact monitors for each person with special needs, in the event of a major emergency evacuation.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2006 from:

- **Sacramento County Executive, as to
Findings and Recommendations 1, 3**
- **Sacramento County Sheriff, as to
Findings and Recommendations 2, 3, 4, 5, 6, 9, 10**
- **Director, Sacramento County Department of Health and Human Services, as to
Findings and Recommendations 3, 4, 6, 7, 8, 9, 10**
- **Director, Sacramento County Department of Human Assistance, as to
Findings and Recommendations 8**

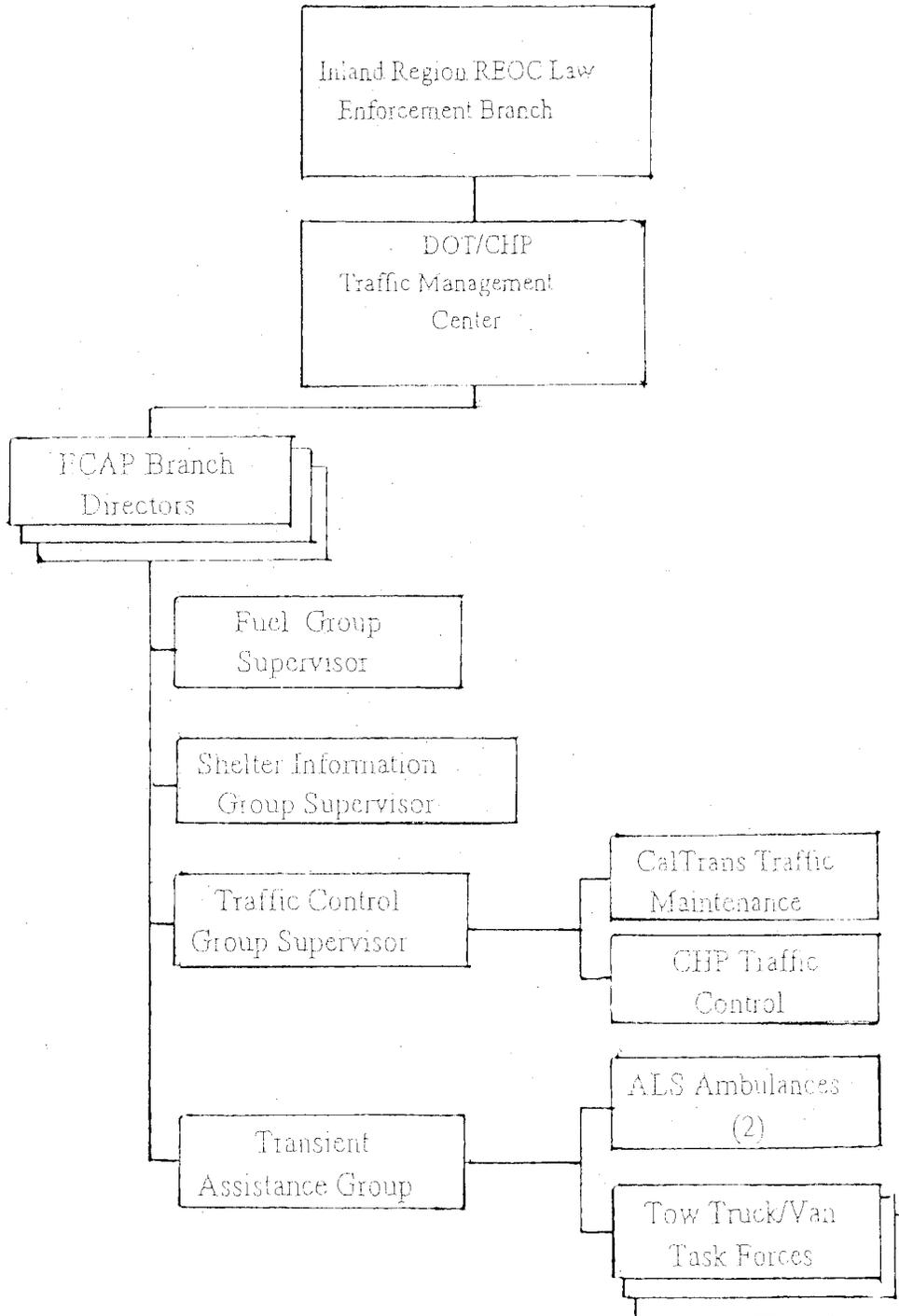
Attachment A

Inland Region of California



Attachment B

ECAP Organization



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GOALS AND OBJECTIVES OF MENTAL HEALTH SERVICES IN SACRAMENTO COUNTY UNDER THE MENTAL HEALTH SERVICES ACT

Issue

How are new programs and expansion of existing programs funded under the Mental Health Services Act (MHSA) designed to narrow the gap between ethnic groups that are fully served and those that are underserved or unserved?

Reason for the Investigation

In November 2004, the voters of the State of California passed Proposition 63, an initiative measure by which the MHSA became state law effective January 1, 2005. The principal goal of MHSA is to fund the gaps in care for all children and adults in need of mental health services. The purpose of this investigation is to determine how the new programs and the expansion of existing programs funded under MHSA are designed to more closely accommodate the ethnic groups which have been unevenly served in the past.

Method of Investigation

The Grand Jury interviewed the following:

- County Department of Health and Human Services
 - Director, Mental Health Services
 - Chief, Adult Mental Health Services
 - Program Manager, MHSA
 - Ethnic Services Manager
- President, National Alliance for the Mentally Ill, Sacramento
- Director of Governmental Relations, California Psychiatric Association
- Professor and Ph.D., Cross Cultural Psychology; Chair, Sacramento Mental Health Board

The following documents, charts, and manuals were consulted:

- Sacramento County, Mental Health Services Act: Community Services and Supports - Three Year Program and Expenditure Plan (January 2006)
- Mental Health Services Act (principal provisions, Welfare & Institutions Code §§5771.1 - 5898)
- Documents, reports, statistics, surveys and other materials from the Sacramento County Mental Health Treatment Center, Turning Point ISA, and El Hogar RST

The following sites were visited:

- Sacramento County Mental Health Treatment Center
- Turning Point (South) ISA
- El Hogar Mental Health and Community Service Center RST

Background and Facts

I. Current Unmet Need in Sacramento County

Terms for the benefit of the reader:

Youth	Children aged 0 – 17
TAY	Transitional aged youth 16 – 25
Adults	Persons aged 18 – 59
TAA	Transition aged adults 55 – 59
Older adults	Persons aged 60 and above
API	Asian/Pacific Islander
AINA	American Indian/Native Alaskan
NHPI	Native Hawaiian/Pacific Islander

“Co-occurring disorder” is an additional disorder attendant upon a diagnosed mental illness, such as a physical disorder or substance dependency.

“Client population” refers to the county’s mental health clients.

Much of the information provided below is derived from a 450 page volume of narrative, charts and graphs assembled by the County Department of Health and Human Services, and known as the “Sacramento County Community Services and Supports Plan” (County CSS Plan). This Plan for programs and expenditures of MHSA funds extends for a period of three years.

The target populations include those with serious emotional disability who are not currently receiving mental health services (unserved), or not receiving adequate mental health services to recover from the disorder or to prevent disability (underserved). For purposes of this summary, the term “underserved” also incorporates “unserved” and “unmet need.”

By way of a summary pertaining to the designated age categories, the following principal themes which may be derived from the more detailed data provided in the county CSS Plan are set forth below. Since there are an estimated 11,000 homeless individuals in the County, 35 - 50% of whom are mentally ill, or mentally ill with co-occurring disorders, a comment relating to homelessness in each category will be made.

Youth

Underserved by race/ethnicity

The Hispanic/Latino, AINA, Asian and NHPI groups have high rates of unmet need, with the most apparent need being in the Asian population.

The Latino population is underrepresented in the county's client population, and when they are being served, they are less likely to be fully served.

The API population is underrepresented in the county's client population.

Homelessness

Currently, at any given time, the Sacramento Division of Mental Health has 54 children enrolled in either day shelter or transitional housing. It has been estimated that there are approximately 5,000 homeless children in the county. This leaves the vast majority of such children unserved and without housing alternatives. The mentally ill in this category are profoundly underserved.

In a recent survey of 385 youth in local homeless shelters, over 50% were identified as African American, 26% as Caucasian, 6% as AINA, and 1% Asian. The county's general youth population data show 14% African American, 37% Caucasian, 2% Native American, and 14% API. (Steps are being taken to correct the data collection system to more accurately reflect data for Latinos, which are currently not available.)

Transitional age youth

Underserved by race/ethnicity

Significant unmet need is apparent in the populations in the county.

The Latino population is underrepresented in the county's client population, and when they are served, they are less likely to be fully served.

The API population is underrepresented in the county's client population.

Homelessness

Members of this category with serious emotional disturbances who age out of the foster care system in the county pose the highest risk for homelessness. It is estimated that approximately 45% of the youth who age out of the foster care system each year will have unstable plans, leaving them vulnerable to becoming homeless.

Adults

Underserved by race/ethnicity

The Hispanic/Latino and Asian populations have high rates of unmet need.

The Latino population is underrepresented in the county's client population, and when they are served, they are less likely to be fully served.

The API population is underrepresented in the county's client population. There is also a striking absence of this population among those fully served.

Homelessness

It is estimated that there are between 4,000 and 6,000 homeless adults with persistent mental illness who are untreated in the county.

In a recent survey of 2,161 adults in local homeless shelters, 37% were identified as African American, 44% as Caucasian, 4% as AINA, and 1% as Asian. The county's general adult population data show 10% African American, 53% Caucasian, 2% Native American, and 14% API. (Steps are being taken to correct the data collection system to more accurately reflect data for Latinos, which are currently not available.)

Older adults

Underserved by race/ethnicity

A significant unmet need is apparent.

Latinos are less likely to be fully served.

The API population is underrepresented in the county's client population, and there is a striking absence of this population in those fully served.

Homelessness

The serious lack of affordable housing in the county is compounded for older adults with mental illness, in that they frequently lack resources or support systems. Within the county's homeless population, approximately 10% are in this category.

Analysis of summary for all age groups by race/ethnicity:

Hispanic/Latinos have high rates of unmet need and are underrepresented in all age groups.

Asian youth, adults and older adults have high rates of unmet need.

API is underrepresented in all age groups.

API, AINA, and NHPI youth have high rates of unmet need.

Attached is a chart entitled "Penetration Rates - Ethnicity", indicating the percent of population served in the county for each of the ethnicities shown. It may be seen that the penetration rate is high for African Americans and Caucasians, and relatively low for Latinos. It is particularly low for API, Chinese, Laotian, and Vietnamese.

II. Identification of Programs Initiated or Expanded by MHSA Funds

The following programs, which have been approved by the County Board of Supervisors, are identified in the County CSS (Three-Year) Plan:

Transitional Community Opportunities for Recovery and Engagement (CORE)

This program is designed to serve 200 individuals at any given time, in the TAY, adult, TAA, and older adult age groups. CORE is an intensive community-based, multi-disciplinary team approach designed to deliver comprehensive and flexible treatment. The targeted population consists of those referred for services by the acute care system, i.e., the Sacramento Mental Health Treatment Center (MHTC), local acute psychiatric hospitals, Crisis Stabilization Unit, Crisis Residential Program, and Jail Psychiatric Services. The services will be considered ongoing until the consumer has been linked and transitioned to longer term mental health services. Services will include integrated treatment for co-occurring disorders.

It is anticipated that the program will result in a reduction in the need for crisis services, hospitalization and institutionalization, as well as increased community-based services for unlinked individuals and increased diversion from the MHTC Crisis Unit into the outpatient service system. It is also anticipated that housing and vocational supports will be provided to those clients who identify these elements as service plan goals.

Older Adult Intensive Services Program

This program is designed to serve 100 individuals at any given time, in the TAA and older adult age groups. It will provide culturally appropriate specialized geriatric psychiatric support, multi-disciplinary outpatient mental health assessment, treatment and intensive case management, as well as integrated treatment for co-occurring disorders. Clinic and home-based services will be provided.

It is anticipated that the program will result in improved medical and functional stability, increased social supports, decreased isolation and reduced emergency room utilization, hospitalization, and homelessness.

Permanent Supportive Housing Program for Individuals and Families

This program is designed to serve 125 individuals at any given time, including 57 adults, 31 seriously emotionally disturbed children and their families, 31 TAY and 6 older adults. The program will provide integrated, comprehensive, culturally competent, supportive housing subsidies and services to the underserved population. Permanent housing units will be developed with leveraged funding through a partnership with the Sacramento Housing and Redevelopment Agency, the County's Division of Mental Health, a nonprofit housing developer, and a contracted mental health service agency. Staffing will include consumers, advocates, professionals and housing and employment specialists. Services will include integrated treatment for co-occurring disorders.

It is anticipated that, in addition to housing, the program will provide the supports to assist the participant to succeed in recovery and wellness, and re-integration into the community. There will also be fewer hospitalizations and incarcerations, and increased employment.

Transcultural Wellness Center

This program is designed to serve 250 individuals at any given time in all age groups. The Center will provide culturally appropriate mental health services for API communities, including Chinese, Filipino, Japanese, Korean, Hmong, Vietnamese, Mien, Laotian, Cambodian, Tongan, Samoan, Hawaiian and Fijian Americans. The program will present mental health interventions, treatment and prevention strategies in various languages, and in a manner that is sensitive to cultural beliefs, traditions, values, practices and ceremonies. The program will be presented by a comprehensive multi-disciplinary, bicultural/bilingual staff.

It is anticipated that individuals with serious mental illness will be diverted from the criminal and juvenile justice systems, and that through contact and communication with those systems there may be an increased awareness of cultural issues to be considered in individual case determinations.

Wellness and Recovery Center

This program is designed to serve 400 individuals at any given time in the TAY, adult, and older adult age groups. The center will be a neighborhood multi-service facility providing a supportive environment offering choice and self-directed guidance for recovery and transition into community life. The program will make every effort to employ consumers and family members from throughout the community to staff the center. Peer counseling, peer mentoring, interpreter/translator and psycho-educational services, and psychiatric support, as well as natural healing practices, will be offered.

It is anticipated that consumers and family members will have the opportunity to develop wellness and recovery skills with the objectives of re-engagement in the community, relapse prevention, independence, and an improved quality of life.

Psychiatric Emergency Response Team Program (PERT)

This program is designed to serve 3,228 individuals annually in all age groups. Each of four PERT teams will consist of a mental health clinician and a law enforcement officer, and will provide ethnically and culturally appropriate multi-disciplinary mobile crisis assessments to stabilize the mental health crisis, establish linkages with appropriate mental health, physical healthcare, substance abuse, other co-occurring disorders, and social services.

It is anticipated that the program will reduce unnecessary trauma to consumers and family members, avoid involuntary interventions and reduce the utilization of higher levels of care and incarceration by way of diversion and alternative crisis resolution.

III. How the MHSA Funded Programs are Designed to Narrow the Gaps in Service

The County CSS Plan expressly sets forth the following primary objectives, which are related to the current disparities in access and service delivery to: 1) increase the total number of fully served within the county population; 2) increase the percentage of Latino, API, and Native American clients served to more accurately reflect their percentage distribution in the county; and 3) increase the total number of Latino, API, and Native American clients served to more accurately reflect their absolute numerical distribution in the county.

The Grand Jury's investigation now turns to an examination of the elements or characteristics of each program which are specifically designed to achieve those objectives.

Transitional Community Opportunities for Recovery and Engagement

The CORE program is designed to bring quality, ethnically diverse, and culturally competent services to persons in need. The practice of mobilizing team members allows for culturally sensitive skills to be brought directly to individuals in their specific communities. This will reduce ethnic disparity in utilization of mental health services. Emphasis will be placed on services to unserved, underserved, and inappropriately served groups, including Latinos, Native Americans, African Americans, refugees, and others. To focus on making services acceptable to diverse cultures and ethnicities, the program will employ staff who are culturally diverse, culturally competent, bilingual, and who reflect the ethnic and linguistic diversity of the population being served. Primary care physicians, non-traditional healthcare providers of medical services, and culturally diverse and competent counselors will be sought to provide services.

Older Adult Intensive Services Program

To reduce ethnic disparity in the utilization of mental health services, this program will focus on making its services acceptable to older adults of diverse cultures and ethnicities. This will occur by hiring staff, family and consumer advocates and peer counselors who are culturally diverse, culturally competent, bilingual, and who reflect the ethnic and linguistic diversity of the population being served.

Permanent Supportive Housing Program

Active outreach effort to the homeless unserved and underserved from ethnic and cultural populations is a core focus of this program. The staff will be proficient in communicating and engaging with this population. The County Division of Mental Health will request that any successful bidder establish a program that is culturally competent and will serve diverse cultural and ethnic communities. Initially, the program will attempt to serve ethnic minority groups as shown by population data. In order to bridge the information gap with these communities, the program will: 1) develop focused outreach to each cultural/ethnic community for mutual identification of goals; 2) develop housing programs and supportive services that meet the goals of each such group; and 3) adjust to needs as they become clarified.

Transcultural Wellness Center

As noted above, the API community in general, and all of its ethnicities, are underrepresented in the county's mental health services. The center is designed to offer linguistically and culturally sensitive and appropriate services to this relatively large population. While all cultural and ethnic groups will be welcome to services, the center's staff with bilingual/bicultural skills will specifically focus on services to individuals and families from the API community. Outreach and engagement efforts will be directed toward all API populations through the media, religious institutions, community centers, schools, and individual contact through community leaders.

Wellness and Recovery Center

Activities of this center will consist of consumer and family member focused services that meet the self-identified needs of a culturally and linguistically diverse community. The intention is to recruit staff that is representative of the community. The program will have an aggressive, on-going campaign to employ consumer staff with attributes and skills that will enhance recovery and resilience. All will be trained in providing culturally and ethnically competent services.

Psychiatric Emergency Response Teams

This program will recruit bilingual/bicultural staff to provide culturally competent services. Priority will be given to staffing, including family/consumer advocates, that reflects the ethnic and linguistic diversity of the community, and which is skilled in working with diverse populations.

It appears that the elements and characteristics of each program are reasonably conceived and designed to narrow the gap in mental health services between the various ethnic groups. It is urged that successor Grand Juries, during the first three year phase of the County CSS Plan, conduct an empirical investigation to determine whether and to what extent the stated objectives are actually realized.

Findings and Recommendations

Finding 1. The API community, and each of the component ethnicities within that designation, are among the most underserved populations in the county.

Recommendation 1. Using the attached Penetration Rate Chart as a reference, and employing the services of the Transcultural Wellness Center in collaboration with other programs, the county should make every effort to increase the penetration rate of API in general, and of Chinese, Korean, Laotian, Samoan, and Vietnamese ethnic groups in particular, by 1.5% within the first year of the three year plan.

Finding 2. In a recent survey of local shelters for the homeless, more than 50% of youth, and 37% of adults have been identified as African American. In the county's general population, 14% of youth and 10% of adults are African American.

Recommendation 2. Utilizing the services of the Permanent Supportive Housing Program in collaboration with other programs, the county should identify the African American community as a prime target of its outreach and engagement efforts in order to increase its participation in the Housing Program.

Finding 3. While Latinos comprise a large segment of the general population, the percentage of Latinos in local shelters for the homeless can not be accurately stated due to discrepancies in the collection of data. It is known, however, that the Latino population has been unserved or underserved in terms of health and mental health services, due to difficulties relating to language, insurance and/or documentation.

Recommendation 3. The county should identify the Latino community as a prime focus of culturally sensitive and bilingual outreach and engagement methods in order to increase its participation in housing and other mental health programs.

Finding 4. The oversight of the Sacramento County Grand Jury should continue through the County CSS Three Year Plan to monitor the effectiveness of the MHSA programs.

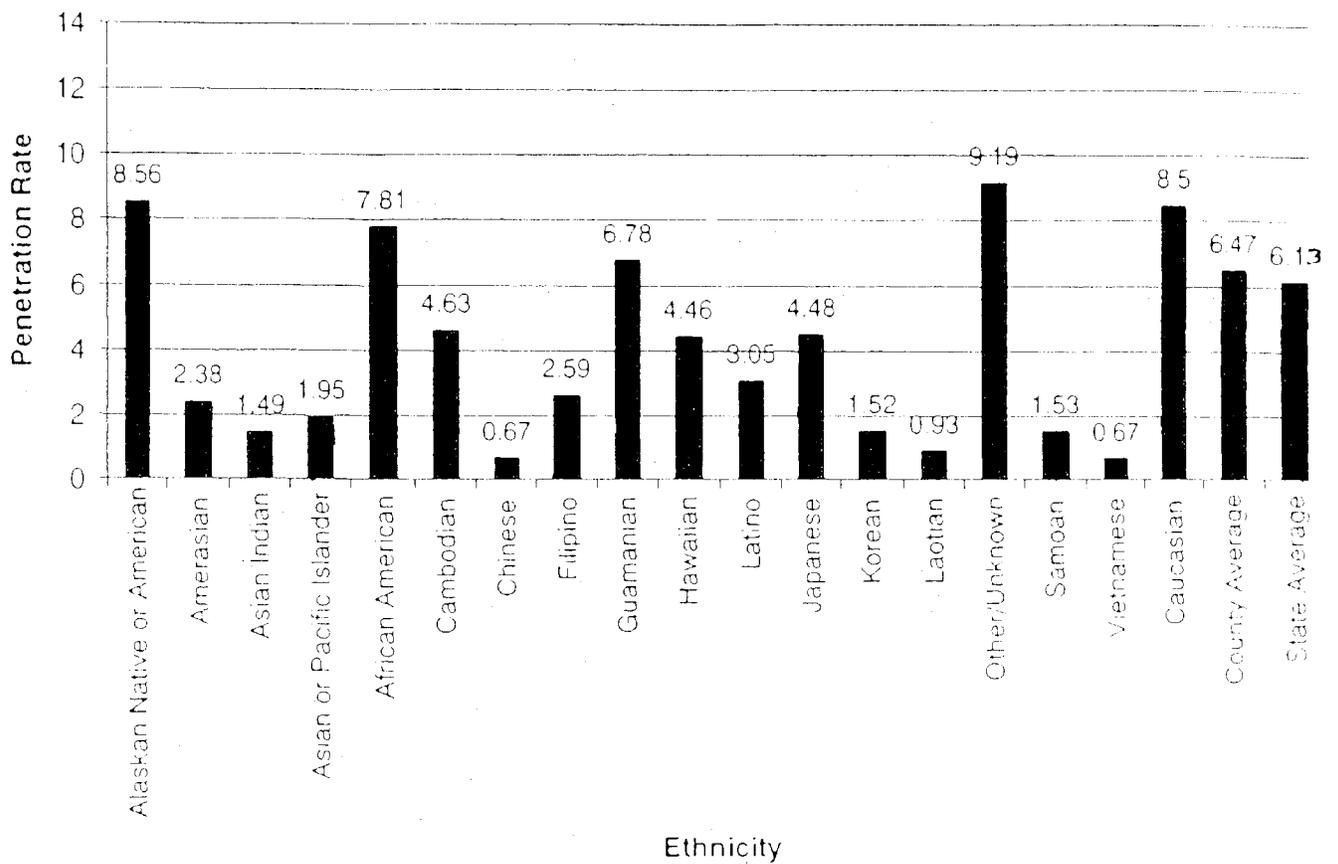
Recommendation 4. The Director, or the MHSA Program Manager, or the Ethnic Services Manager of the Division of Mental Health Services, Department of Health and Human Services, should apprise the chair of the Health and Human Services Committee of the 2006-2007 Sacramento County Grand Jury of data, as they become available, relating to the effectiveness of the five programs considered herein, in relation to services rendered to underserved ethnic groups.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2006 from:

- **The Director, Sacramento County Department of Health and Human Services**

Penetration Rates – Ethnicity



Penetration Rate: the number of mental health clients divided by the number in the MediCal population. It represents the % of the population you are reaching.

CHILD PROTECTIVE SERVICES INTAKE PROCEDURES

Issue

What are the intake procedures at Children's Receiving Home of Sacramento (CRH) and Child Protective Services (CPS) Dependent Intake Unit regarding receiving of children into protective custody?

Reason for the Investigation

In August 2005, the police transported a developmentally delayed teenager to the CRH. It was around 11:30 P.M.; the juvenile was scared, tired and hungry; his mother had been arrested that evening, and there was no one available at that hour to care for him. The complainant alleged that the CRH staff would not accept the juvenile, and told the police to take him to the Sacramento Mental Health Treatment Center (SMHTC) on Stockton Boulevard. The complainant felt the CRH should have admitted the juvenile, as SMHTC housed people with more serious health problems.

Method of Investigation

The Grand Jury toured the CRH facilities and interviewed the following individuals:

- Chief Executive Officer
- Director of Clinical Services
- Program Specialist Manager, Nurse (LVN)
- Director of Programs
- Human Services Supervisor of the CPS Dependent Intake Unit

The Grand Jury also reviewed the following documents:

- CRH Policy and Procedure Manual for 2005
- Protective Custody Report Form completed by the admitting agency when requesting admittance to the CRH
- General Statistics breakdown sheets for 2005

Background and Facts

CRH has provided Sacramento County with short term shelter care for abused and neglected children since 1944. The county contracts with CRH for this service. This facility has been located at its current site, 3555 Auburn Boulevard, Sacramento, CA since 1965. Most of the children, ages 1 through 17, are brought to the facility by law enforcement, often at the request of, and in agreement with, CPS. The average stay in this 98-bed facility is approximately 28 days. It is open 24 hours a day, 7 days a week. Upon release from the facility, children are either returned to their homes, placed into the custody of other family members, or into foster care.

The admission goal of CRH is to accept as many children as possible. They realize these children come to them in a crisis situation. However, there are occasions when they may have to refuse admittance. Some of the non-admission categories are as follows:

- Lack of available bed space for the age and/or gender of the referred child
- Children whose physical impairment or non-communicative status limits their ability to care for themselves, and is beyond the ability of the program to help
- Children who are a clear and present danger to themselves or others, i.e., who exhibit physical or sexual-assaultive behavior, or have been charged with a felony
- Children with specific medical issues. These are reviewed on a case by case basis.
- Juveniles with a history of running away

The Grand Jury conducted an investigation into the complainant's allegations. At the conclusion of the investigation, the following facts were brought to light:

- The juvenile in question had been brought to CPS Dependent Intake Desk at CRH by the police, requesting a "courtesy hold" for a few hours. They were not requesting a custodial admittance into the facility. It was not an uncommon occurrence for the police to request a "courtesy hold." The general policy at CRH, when a juvenile is brought to the facility is, the juvenile is first processed by CPS Dependent Intake Unit before possible admittance to CRH. Therefore, CRH had not been aware of this particular incident.
- The juvenile's mother had been arrested and jailed for drunk and disorderly conduct.
- The police needed a safe place for the child to stay for a few hours, until they could place him back with his mother, or contact the father, or uncle who lived in San Francisco. The staff at the CPS Dependent Intake Desk and the police tried to find the best solution.
- The developmentally delayed juvenile had a history of running away, and CRH is not a locked facility. It would have been irresponsible to place the juvenile in a situation where he might find himself on the street, in the middle of the night, unable to care for or protect himself. After conferring with CPS Intake Dependent Unit, the police called SMHTC and made the final decision to take the juvenile to that location because it was a locked facility.
- SMHTC agreed to take the child for a few hours.

The next day, the CPS Human Services Supervisor was made aware of the incident by her staff. She thought the juvenile should have been turned over to CPS. Then, CPS would have done a complete investigation and decided what was best for the child. Returning the child to his

mother might not have been the best decision. If the police turned the child over to the father, it is likely that he would have returned him to the mother.

Shortly after this incident occurred, but several months before this complaint was brought to the Grand Jury, the CPS Human Services Supervisor of the Dependent Intake Unit established new procedures to be used when the police bring a child to CRH. She believed an unofficial “courtesy hold” was not in the best interest of any child. The “courtesy hold” did not allow CPS to have full responsibility for the child, and their “child protective custody” procedures would not have been followed.

CPS no longer offers a “courtesy hold”, and automatically places the child in protective custody. The Protective Custody Report form is completed by the admitting party. CPS then conducts an investigation into the child’s circumstances and makes a recommendation as to placement. Before any child is released from custody, the CPS social worker must have the approval of the supervisor.

The Grand Jury has been advised that CPS recently entered into a Memorandum Of Understanding (MOU) with Alta California Regional Center (ACRC). The two organizations worked for over a year on the MOU. ACRC is a private, non-profit agency assisting in the placement of developmentally disabled children and high risk infants. ACRC contracts with state operated homes and foster care homes to care for these special needs children. CPS and ACRC had long realized there was a need for this kind of cooperation between the two organizations. Hereafter, when an incident occurs such as the one reported in this complaint, CPS can contact ACRC, which will respond and assist with these special needs placements.

Findings and Recommendations

Finding 1. The August incident with the developmentally delayed juvenile raised a red flag at the CPS Dependent Intake Unit of CRH. It became apparent that CPS needed to have full responsibility for any child brought to its unit. They took corrective action necessary to accomplish that goal. They are to be commended for their resolve to change the procedure. This decision gives CPS better control over juveniles placed in its care.

Recommendation 1. The Grand Jury supports the change made to CPS intake procedures. This change was an appropriate and necessary step, and the Grand Jury recommends they keep the new requirement in place.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **Director of Health and Human Services**
- **Child Protective Services**

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CITY OF CITRUS HEIGHTS OVERSIGHT OF CONTRACT SERVICES

Issue

Is the City of Citrus Heights held accountable for completion of municipal services for which it contracted? Are adequate procedures in place to monitor projects in progress and to ensure complete compliance with contracts?

Reason for the Investigation

The City of Citrus Heights contracted with a vendor to demolish a house and haul away the debris. Two years later a substantial amount of debris was found buried on the site. The City denied accountability.

Method of Investigation

The Grand Jury interviewed the following:

- Complainant

City of Citrus Heights:

- Chief Building and Safety Inspector
- Chief Building Official
- Community Enhancement Manager
- Community Development Director
- Administrative Services Director
- City Attorney

The Grand Jury reviewed:

- Abatement warrant and permits
- Service agreements, supporting material
- Documents for building actions and inspections
- Documents relevant to this claim against the City of Citrus Heights
- Relevant correspondence
- Photographs of the subject site

Background and Facts

The City of Citrus Heights routinely contracts with vendors for services. On March 6, 2003 the Neighborhood Enhancement Department (NED) contracted with a trucking company to demolish a house, remove all resulting debris, and clear all junk, trash, and overgrown vegetation from the property. Work began on March 21, 2003 and was completed on the same day. No building inspector or NED staff was present while the work was in progress. Upon the completion of the job, a building inspector verified that the site was cleared, and utilities, water lines, and sewer lines were capped.

The property changed ownership, and the new owner proceeded to build a house on the site. In July 2005, while digging in preparation for the foundation, a large amount of debris consisting of concrete, wood, metal, and household material was found buried on the site. In order to proceed with construction of the new house, the owner was required to obtain a permit, remove the debris, and re-compact the soil.

The City of Citrus Heights denied responsibility for the incomplete job of debris removal, and no action was taken against the original vendor. To recoup costs of the July, 2005 clearing, the owner filed a claim against the City of Citrus Heights. The Citrus Heights Risk Management Division denied the claim, even though its investigation found that the vendor did not perform according to the contract, and that the debris was relevant to the former residence at the site. Once a claim is denied, there is no appeal process. A citizen's only recourse is to file a lawsuit against the City of Citrus Heights.

Findings and Recommendations

Finding 1. In this case, the City of Citrus Heights Neighborhood Enhancement Department did not exercise adequate oversight of contract services, nor did it demonstrate adequate job completion follow up. No one from the City of Citrus Heights monitored the job in progress and there was no confirmation that all the debris had been removed from the site.

Recommendation 1. The city should institute an effective system of monitoring and overseeing contracts. The final inspection should require more than a cursory check of the capping of utilities and water lines. The city should assign qualified staff to check on jobs in progress, and conduct thorough inspections of each job upon completion to confirm that the work was fully performed in accordance with the contract requirements.

Finding 2. Given the substantial quantity of the debris found on the site by the new owner, it is unreasonable to conclude that either the previous owner, or unknown parties, buried it there subsequent to the 2003 demolition and debris removal. When the situation was reported to the City of Citrus Heights Neighborhood Enhancement Department, it denied responsibility.

Recommendation 2. The City of Citrus Heights should assume accountability whenever a vendor with whom it contracts does not comply with the contract.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2006 from:

- **Citrus Heights City Manager**
- **City of Citrus Heights City Council**

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**Comments and Updates on Selected Responses to the
Findings and Recommendations of the
2004-2005 Grand Jury Final Report**

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COMMENTS AND UPDATES ON SELECTED RESPONSES TO THE FINDINGS AND RECOMMENDATIONS OF THE 2004-2005 GRAND JURY FINAL REPORT

Introduction

This new section serves two distinct purposes.

First, the comments will apprise the citizens of Sacramento County on the sufficiency of selected responses to the findings and recommendations of three reports designated below; whether they were on target, and thus whether the agencies and officers required by law to provide these responses fulfilled this official duty pursuant to Penal Code section 933(c), and in the manner prescribed by section 933.05(a) and (b). These comments are based solely upon a review of the responses themselves to each of the specified findings and recommendations. They are provided pursuant to the authority of the grand jury under sections 925 and 925a.

Second, the updates will inform the public of progress, or lack thereof, which has been made with respect to matters which the responding agencies have indicated would be remedied within a certain time frame. These updates have required the current Grand Jury to conduct a supplemental inquiry for the sole purpose of monitoring such progress at the request of the preceding Grand Jury.

For each of the three reports referred to below, the Issue statement and Reason for Investigation have been reprinted from the 2004-2005 Grand Jury report. Following those restatements are the 2005-2006 Grand Jury comments upon the responses to each of the selected findings and recommendations of those reports.

The complete 2004-2005 Grand Jury Report and responses from the affected agencies can be found on-line at www.sacgrandjury.org, or by mail to Sacramento Superior Court, Grand Jury, 720 Ninth Street, Room 611, Sacramento, CA 95814. No further response to the comments or updates contained in this section is required.

I. Sacramento County Civil Service Commission

Issue

The focus of this (2004-2005) Grand Jury investigation is to determine if the processes and procedures of the Sacramento County Civil Service Commission (Commission) are adequate and appropriate when it considers the merits of appeals by county employees concerning disciplinary actions taken against them by their employers.

Reason for the Investigation

During the last six months, a great deal of public and media attention has been drawn to a number of decisions in which the Commission overturned the Sacramento County Sheriff's decision to dismiss several sheriffs' deputies for misconduct. The Commission's actions resulted in these deputies being fully reinstated to duty. Public concern over these reinstatements caused the Grand Jury to initiate an investigation.

Selected Findings and Recommendations with Comments

Comment on Response to Finding and Recommendation 3: The Commission's response was irrelevant to the Grand Jury's recommendation. The Grand Jury found that the Commission's Rules do not define a recusal policy to be followed in the event of an actual, potential, or appearance of bias in a particular case, and recommended that such a policy be defined and adopted. By way of response, the Commission simply quotes its Rule on recusal in cases of conflict of interest, and declares that the Grand Jury's recommendation "is currently implemented by [that Rule]." Since "conflict of interest" (arising from financial considerations) is wholly distinct from "bias" (emanating out of prejudice or favoritism), the Rule quoted by the Commission does not pertain to the recommendation.

Comment and Update on Response to Finding and Recommendation 4: The Commission's response failed to recognize its power to make final decisions. The Grand Jury found that the Commission, by its own Rules, does not expressly allow itself the prerogative, in a disciplinary appeal, to consider the full reporter's transcript of the hearing before a hearing officer, which alone contains *all* relevant facts and circumstances which the Commission should be able to consider in making a final decision in a case. This finding is the basis for the Grand Jury's key recommendation, to amend the Commission's Rules to expressly preserve this essential prerogative, in order to restore to the Commission the power to exercise its responsibility to "make final decisions on appeals from disciplinary actions", as provided in the Commission's charter. Instead, the Commission responds that its Rules permit the hearing officer to act as the final arbiter of the factual findings, and that nothing in its charter provides an appellant with "two evidentiary hearings", one before the hearing officer, and one before the Commission. On the contrary, the appeal of a hearing officer's *proposed* decision following an evidentiary hearing, to the Commission for review, does not by any means call for a second evidentiary hearing. It does, in fact, provide for a review of *all* relevant evidence adduced in the one and only hearing before the hearing officer. It is important, therefore, in order to reclaim the Commission's own responsibility to make the final decision as to the determination of facts, law, and discipline, for the current Grand Jury to comment upon the claim that the Commission's charter permits, and that its Rules provide for, the hearing officer to act as the final arbiter of the factual findings.

The Sacramento County Charter, Article XVI, section 71, provides that "The commission shall make final decisions on appeals from disciplinary actions . . ." (Sec. 71B(c).) There are multiple decisions to be made in an appeal from disciplinary action. In the most basic mandate

of the Charter just quoted, there is no exclusive reference to discipline. Indeed, the discipline may be decided only in the context of the determination of facts and the proper application of the law in each case. While the Commission may take the hearing officer's *recommended* determination of facts and law into consideration, the ultimate responsibility to make all three decisions of fact, law, and discipline lies squarely with the Commission. None of these final decisions may be ceded to a single individual who is the employee or independent contractor of the Commission. The Charter contains no reference whatsoever which remotely suggests otherwise. (See also, sec. 71B(e): ". . . in hearing disciplinary and other appeals the commission shall have the power to subpoena witnesses, books, records and papers, and to administer oaths", and sec. 71B(f): "The commission, subject to the approval of the Board of Supervisors, *may* employ or contract for hearing officers to hear appeals of disciplinary actions and other matters and prepare *recommendations* for the commission.") It is clear from these provisions that the Commission may proceed without hearing officers, but that if hearing officers are employed or contracted, their role is limited to the making of recommendations only.

Further, a careful review of the Commission's own Rules (e.g., 11.12), its Orientation Handbook for Civil Service Commissioners (e.g., pp. 5 (4), 10), reveals nothing to the contrary.

Finally, the Commission further responded that it would conduct and complete by December 31, 2005, a thorough review of its Rules 11 and 12, to consider possible amendments that would preserve its option to conduct hearings with or without hearing officers. On December 28, 2005, the Commission reported to the Presiding Judge of the Superior Court that "Since the Grand Jury report was released, the Commission has lost one member and acquired two new members and is still in the process of reviewing Sections 11 and 12 of the Civil Service Rules. However, it is the intent of the Commission to continue in this endeavor and see it through to completion."

Comment on Response to Finding and Recommendation 5: The Commission's response failed to recognize its power to consider evidentiary, procedural and legal issues.

The Grand Jury found that the Commission, by its own Rules, has precluded any argument on appeal from a disciplinary action relating to evidentiary, procedural or legal issues which were raised, or could have been raised, before the hearing officer, or the weight of the evidence or the credibility of a witness. Thus, the hearing officer's determinations as to all issues of evidence, procedure or law, including the weight of the evidence, and the credibility of witnesses, are not subject to review by the Commission. The Grand Jury recommended the Commission amend its Rules to allow for all such considerations. While it is technically true, as noted by the Commission in its response, that the Grand Jury's characterization that such considerations "are not subject to review" by the Commission is an overstatement, the fact remains that such matters may not be *argued* on appeal. The Commission further responds, however, that the intent of the Rule "is to bar attempts to relitigate the case before the Commission." In this regard, the Grand Jury believes that the Commission essentially misconceives the nature of an appeal. It is one thing to preclude from argument on appeal any matter which *was not but could have been raised* at the initial hearing. But it is a material departure from commonly accepted appellate procedure to limit any argument on appeal as to a matter of procedure or law or evidence that was, in fact, raised but wrongly decided at the hearing level. Such prejudicial error at the hearing level is precisely what an appeal is designed to correct, and should be subject to argument.

Comment on Response to Finding and Recommendation 6: The Commission's response fails to conform to a California Supreme Court decision. The Grand Jury found that the Commission has misinterpreted two causes for disciplinary action: (a) "Failure of good behavior . . . which is of such a nature that it causes discredit to [the employee's] agency or employment", and (b) "Conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his position." The Commission has upheld the hearing officers' rejections of these causes where proof of (a) *actual* discredit or (b) *actual* adverse affect, as the case may be, was not presented. The Grand Jury in support of its finding cited a California Supreme Court case which held unequivocally that the words "of such a nature" in such a cause of action do not require proof of an actual discredit, as fully set forth in the Grand Jury's report. The current Grand Jury is perplexed by the Commission's response to this finding, to wit: "While reasonable persons may hold contrary opinions as to the correctness of a given decision by the Commission or its hearing officer, only the courts can authoritatively decide whether there was improper conduct or error in the application of law by the hearing officer or the Commission." Yet the Grand Jury pointed out specifically that the highest court in this state has already determined the meaning and significance of such a cause of action. Therefore, reasonable persons may *not* hold contrary opinions as to that matter, or cause one of the parties on appeal to raise that issue anew in a superior court. The Commission is simply not free to contravene the Supreme Court on a matter of law.

II. Homeland Security: Ready or Not?

Issue

As part of its responsibility to investigate operations of Sacramento County, and jurisdictions within the county, the Grand Jury embarked on an investigation to determine the extent to which the County of Sacramento and its political subdivisions are coordinated and prepared to respond to an incident in which a weapon of mass destruction is used.

The Grand Jury sought to understand at the broadest level possible whether the basic elements of readiness exist in our community. The Grand Jury sought to draw an overall conclusion from a review of the multi-faceted programs and systems currently under development for prevention, preparation, and response to a multi-jurisdictional terrorist attack.

Reason for the Investigation

The September 11, 2001 attack on the World Trade Center has heightened the nation's sensitivity to the vulnerability of another attack. Experts agree the likelihood of another attack somewhere in this country is nearly certain. The need for every community to be prepared is without question. The co-chairs of the U.S. Commission on National Security, Senators Warren Rudman and Gary Hart, put best the reason for the investigation: "Are we living on borrowed time and squandering it?"

Selected Findings and Recommendations with Comments

Comment and Update on Response to Finding and Recommendation 1: The county has failed to establish a completion deadline for a comprehensive plan incorporating all of the disciplines necessary to prevent, prepare, respond, mitigate, and recover from a weapon of mass destruction event. The Grand Jury recommended that the Board of Supervisors must ensure the development of a unified, comprehensive master plan encompassing all the critical disciplines essential to the prevention, preparation, response, mitigation, and recovery from a weapon of mass destruction event. The County Executive's Office and Sheriff's Department jointly responded that the county's Emergency Operations Office, through a Planning Review Committee comprised of all jurisdictions within the county, would complete an update of the county's All Hazards Disaster Plan, including a new terrorism annex, by November 2005. A detailed Terrorism Annex to the plan was completed in December 2005. As of April 2006, the basic All Hazards Plan update is still only 80% complete.

The County Executive/Sheriff response (reviewed and approved by the County Board of Supervisors on September 20, 2005) further stated that "Over the course of the next several months, it is the goal of the Sacramento Urban Area/Regional Homeland Security Group to integrate all of [the local jurisdictions' disaster plans] into a comprehensive, unified, master plan [including] all of the critical disciplines necessary to prevent, prepare, respond, mitigate and recover from a variety of weapons of mass destruction scenarios." While the completion of a comprehensive plan remains a goal, we are informed that due primarily to the unexpected interruption of federal Urban Area Security Initiative funds, and the resulting decrease in staff, there is no projected date for the completion of such a plan.

Comment on Response to Finding and Recommendation 3: The county's response failed to recognize in its planning process the importance of including all of the critical services required for a disaster response. The Grand Jury found that the approval authorities for the distribution of homeland security grant funds, and of urban area security initiative grant funds, lacked representation by a broad base of critical services other than law enforcement and fire services. Specifically, the approval authority for homeland security funds consists of two law enforcement agencies, two fire agencies, and the county public health officer, while the approval authority for urban area security initiative funds consists only of two law enforcement agencies. The absence of other critical services, including emergency medical, emergency management, hazardous materials, public works, government administration, public safety communications, health care, and public health services, results in the lack of integrated planning and response. The County Executive/Sheriff response states that "The fire service and law enforcement partners have a much broader scope in the event of a disaster than would be normally considered," to the extent that they would instantaneously consume all of the critical disciplines except for public works and governmental administration. Specifically, the fire service would provide for emergency medical services, hazardous materials, emergency management and public safety communications. Law enforcement would provide for emergency management and public safety communications. Public health would provide for all health care in the county or region as the case may be. Hence, there is no need for the inclusion of other disciplines on the approval authorities.

The current Grand Jury deems the response to be untenable. While the fire service does provide emergency medical services, will it provide all such services wherever it is needed in the county or region in the event of wide spread mass casualties? While there are two “hazmat” qualified departments in the county, will they, in addition to their fire operations in an emergency, assume the responsibilities of the county’s Hazardous Materials Division in the event of a large scale attack by a chemical weapon of mass destruction? Would law enforcement and fire services, in addition to their traditional roles, assume such a “broader scope” of services as to include the full array of emergency management services? While they are organizing volunteer citizen corps groups such as the Community Emergency Response Teams, the Medical Reserve Corps, Neighborhood Watch Groups, and Volunteers in Partnership with the Sheriff, the concept of emergency management services includes the provision of food, shelter, and care for potentially tens of thousands of displaced persons and evacuees. These are the functions of public agencies such as the County Department of Health and Human Services, the County Department of Human Assistance, and of private agencies such as the American Red Cross, the Salvation Army, and others. Would law enforcement and fire services actually assume responsibility for public safety communications, establishing all communication links between other disciplines such as public works, government administration, emergency management personnel, persons with special needs, the disabled, medically infirm, client service providers, shelters, hospitals, medical control centers, and with individuals who live in the affected area? Finally, the Division of Public Health could not begin to assume all responsibility for health care in the county, even in the absence of surge conditions.

Comment on Response to Finding and Recommendation 4: The county’s response failed to recognize in its planning process the importance of including critical private industries which are likely targets of a terrorist attack. The Grand Jury found that the county has not effectively integrated the participation of private industry in homeland security, and recommended that the county take immediate steps to include and coordinate the services of private industry, against which a weapon of mass destruction is likely to be directed, in its plans for prevention and response to such an incident. The County Executive/Sheriff response noted a number of areas, including hospitals, agriculture, and “several” retail outlets, where some training, threat assessment, and security enhancement plans, and in one case a joint mass casualty exercise with area insurers, had been conducted. Other specific programs, the Terrorism Early Warning Group, and the TALON website, were noted in the Grand Jury’s report. The response concluded: “The private sector has been included in all planning for potential disasters to the extent that is considered reasonable.” The current Grand Jury questions the sufficiency of this response in light of the authorities cited in the report. Essentially, the emergency functions of the state and counties must be coordinated *as far as possible* with other political jurisdictions, *private industry*, and the services and staff of the county emergency operations office. This would include petrochemical facilities, defense contractors, heavy rail systems, major utilities and so on, any of which may be deemed prime targets of a terrorist event.

Comment on Response to Finding and Recommendation 5: The county’s response failed to recognize the importance of training members of the public at large in regard to a disaster response. In response to a recommendation that the county adopt a strong policy objective to educate and train the public at large on how to respond to a weapon of mass destruction event in a manner which contributes to, rather than impairs, the effectiveness of the operational plan, the

County Executive/Sheriff response states that it has or is developing a plan on the utilization of specified service organizations (e.g., Red Cross, Salvation Army) and discreet groups of citizen volunteers (e.g., Medical Corps, Citizens Emergency Response Team). This response simply does not pertain to the education of the “public at large”, whose behavior could make a huge difference in the event of a disaster. The public at large includes every resident of the county, who should be basically informed as to preparedness at home, things to do in light of the nature of the disaster, looking in on members of the community who are elderly or infirm, how to evacuate, and how to provide emotional assistance to children, the mentally ill, and others in need, and on the reuniting of families. With regard to the public at large, the response contains this single sentence: “This is a very difficult area due to the need to balance what is effective and necessary in terms of educating the public while insuring that the information does not alarm the community.” If, on the contrary, the public is not informed of how it ought to be prepared for and behave in an emergency, then the community should be alarmed indeed.

III. Complaint Against Sacramento Independent Taxi Owners Association’s Hiring Practices

Issue (in pertinent part)

Sacramento Independent Taxi Owners Association (SITOA) is a nonprofit corporation organized to provide taxi service to the Sacramento International Airport. SITOA has a contract with Sacramento County that gives SITOA members the exclusive right to pick up passengers at the airport.

Reason for the Investigation (in part)

The Grand Jury received a complaint that the county may not have been receiving the appropriate income from the taxi fares, as required by the contract, because there was no way to confirm independently how many fares were picked up at the airport by members of SITOA.

Selected Findings and Recommendations with Comments

Update on Finding and Recommendation 4: The airport has responded affirmatively to the Grand Jury’s recommendation related to taxi flow into and out of the airport. The Grand Jury found that the airport has initiated an aggressive program to monitor taxi movement in and out of the airport and to collect fees both from SITOA drivers and other airport taxis that bring passengers to the airport. Vehicle mounted transponders are issued free to all taxis that serve the airport. Traffic control officers at the terminals are alert for taxis that do not have the required transponder, and provide the driver with information as to where a transponder can be obtained. With the transponders, all in and out movements of taxis can be tracked and appropriate bills sent to the companies.

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Grand Jury Complaint Form

Access the Complaint Form on the Grand Jury website:

www.sacgrandjury.org

GRAND JURY COMPLAINT FORM

PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

GRAND JURY USE ONLY:	
Date Received:	_____
Number:	_____
Subject:	_____

NATURE OF COMPLAINT (Describe events in the order they occurred as clearly and concisely as possible. Use extra sheets if necessary and attach copies of any correspondence you feel is pertinent. Documentation becomes the property of the Grand Jury and will not be returned. *Please note: The Sacramento County Grand Jury has no jurisdiction over state or federal agencies, the courts, judicial officers, private companies or most organizations.*)

WHAT PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT YOUR COMPLAINT?

Person or Agency	Address	Date of Contact	Result

WHO SHOULD THE GRAND JURY CONTACT ABOUT THIS MATTER?

Person or Agency	Address	Telephone No

YOUR NAME: _____

DRIVER'S LICENSE NO.: _____

ADDRESS: _____

TELEPHONE NO.: _____

The information I have submitted on this form is true, correct and complete to the best of my knowledge

 Complainant's Signature Date