



2006 – 2007
FINAL REPORT

www.sacgrandjury.org

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The responses to the recommendations in the 2006-2007 Final Report will be available on the Grand Jury website (www.sacgrandjury.org) after November 1, 2007.



Sacramento County Grand Jury



***Donald W. Prange Sr.,
Foreman***

Felix Barros

Richard Bower

Terence Brown

Glenn R. Chambers

Boren Chertkov

Carol Crespo

Anthony S. Da Vigo

Peggy Desmond

Harold Eisenberg

James R. Flanigan

Emma Fravesi

Bryan D. Gross

Carroll M. Hamon

Deborah Hesse

Maureen McNeil

Robert C. Perkins

Robert A. Prentice

Jacqueline M. Ramirez

June 29, 2007

Honorable Raymond M. Cadei
Advisor Judge to the Grand Jury
Sacramento Superior Court
720 Ninth Street, Department 17
Sacramento, CA 95814
and
Citizens of Sacramento County

Dear Judge Cadei and Citizens of Sacramento County:

I take great pleasure in presenting the Final Report of the 2006-2007 Sacramento County Grand Jury. On behalf of all 19 members of the Grand Jury, I would like to acknowledge the invaluable advice and guidance throughout the year of our Advisor Judge, Raymond M. Cadei, and that of our legal consultant, County Counsel Robert A. Ryan, Jr., as well as representatives of the District Attorney's Office, including Jan Scully and Cindy Bessemer. I would also like to commend the Grand Jury Coordinator, Rebecca Castaneda, for her tireless and conscientious work efforts.

It has been a year of many challenges. At the outset of each new Grand Jury year, 19 independent individuals bring together their respective talents and skills to organize a cohesive effort to make a contribution to the governments and citizens of the county. While there were diverse points of view on many issues, they were resolved with dignity and decorum. In addition, of the 19 jurors who completed the year, only fourteen were original members. Five withdrew because of ill health or other compelling causes, one of whom passed away (Judy Casaroli) but remains in our thoughts and memories. Since one of the alternates also resigned due to declining health, a total of 25 individuals have been sworn and empaneled, all of whom made their contribution to the Grand Jury.

Another challenge involved the nearly three months of time the Grand Jury expended in criminal indictment proceedings brought by the District Attorney's Office. A full year is a short period of time in which to learn how to investigate

June 29, 2007

a government agency, and then to write a formal report of findings and recommendations. A reduction of that period to nine months can be critical to the completion of the Grand Jury's principal role of conducting civil investigations of county governments.

I appreciate the cooperative attitude and dedication demonstrated by the majority of the public servants of Sacramento County. I am proud of our Final Report and of each of the 25 Grand Jurors who participated in the effort.

Sincerely,

A handwritten signature in black ink that reads "Donald W. Prange Sr". The signature is written in a cursive style with a large, prominent "D" and "P".

Donald W. Prange, Sr.
Foreman, Sacramento County Grand Jury

DWP/rc

2006 – 2007 Grand Jury Members

Felix Barros	Parole Agent, retired	Sacramento
Richard Bower	Attorney, retired	Carmichael
Terence Brown	Attorney, retired	Sacramento
Glenn R. Chambers	USAF, retired	Sacramento
Boren Chertkov	Attorney, retired	Sacramento
Carol Crespo	Bookkeeper, retired	Sacramento
Anthony S. Da Vigo	Deputy Attorney General, retired	Sacramento
Peggy Desmond	Educator, retired	Sacramento
Harold Eisenberg	Attorney, retired	Sacramento
James R. Flanigan	Architect, retired	Sacramento
Emma Fravesi	Facilities Administrator, retired	Carmichael
Bryan D. Gross	Energy Consultant, retired	Sacramento
Carroll M. Hamon	Civil Engineer, retired	Carmichael
Deborah Hesse	State Executive, retired	Fair Oaks
Maureen McNeil	Health Program Manager, retired	Sacramento
Robert C. Perkins	Forensic Toxicologist	Elk Grove
Donald W. Prange, Sr.	Police Chief, retired	Gold River
Robert A. Prentice	Clinical Psychologist	Sacramento
Jacqueline M. Ramirez	Legal Secretary, retired	Sacramento

Formation and Organization of the 2006-2007 Sacramento County Grand Jury

California Constitution, Article I, Section 23, provides that “One or more grand juries shall be drawn and summoned at least once a year in each county.” The law governing Grand Jury formation, authority, powers and proceedings, is found in Part 2, Title 4, of the California Penal Code, sections 888 - 939.91.

The Sacramento County Grand Jury is a body comprised of qualified persons drawn from the citizens of the county, who have volunteered or been selected at random, and nominated by a judge of the Superior Court. Before June 30 of each year, a new Grand Jury of 19 such individuals is selected by lot, and impaneled and sworn by the Superior Court. The new Grand Jury is a distinct and separate entity and must establish its own organization and rules of procedure. By law, any action taken by the Grand Jury must be authorized by 12 of the 19 jurors.

The Grand Jury is sworn to inquire of “public offenses committed or triable within the county,” and to investigate or inquire into “county matters of civil concern.” Hence, the Sacramento County Grand Jury exercises both criminal and civil investigative authority. Its civil authority extends to reviews of the functions and operations of the county, and of cities, school and special districts, and specified private nonprofit organizations within the County of Sacramento.

Criminal matters are presented to the Grand Jury by the Sacramento County District Attorney or by the California Attorney General. If it is determined that there is probable cause to believe an accused person(s) has committed a felony, the Grand Jury will return an indictment, to which the accused must enter a plea in Superior Court.

The Grand Jury has five standing committees that carry out investigations: Administrative and Municipal Affairs; Education; Criminal and Juvenile Justice; Environment, Public Works and Special Districts; and Health and Human Services. An “ad hoc” committee may be established to consider a subject which transcends more than one of the standing committees. Two such committees were established during the current Grand Jury year. In addition, there are two “in-house” committees: Continuity and Editorial. The Continuity Committee is primarily responsible for the coordination of internal processes, and for the interrelationship of processes with predecessor and successor Grand Juries. The Editorial Committee is responsible for the accuracy and integrity of the current year’s reports, including findings and recommendations.

The disclosure by a grand juror of any evidence adduced before the Grand Jury in the course of an investigation is punishable as a misdemeanor, except in the case of a proper order of the Superior Court. Complaints, as well as testimony given to the Grand Jury by a witness, are held in the strictest confidence. Similarly, witnesses are prohibited from disclosing any proceedings of the Grand Jury.

Any individual may file a complaint with the Sacramento County Grand Jury. A complaint form may be found in the introductory section of this report, at www.sacgrandjury.org, or obtained by calling the Grand Jury office at 916.874.7578.

The Making of a Grand Jury Report

On June 30 of each year, the Sacramento County Grand Jury issues its Final Report, a compilation of all the reports issued during the preceding year. Although each Grand Jury establishes its own organization and rules of procedure, the process by which a Grand Jury report is formulated is a tradition carried over from year to year. The process closely adhered to by the current Grand Jury is described here.

The subject of a Grand Jury report may derive from a citizen complaint, an idea self generated by a committee, or “upon some selective basis” as provided by law. Each complaint is assigned according to subject matter to a committee, where it is initially examined to determine if a potential problem exists that justifies opening an investigation.

Once a committee has decided to open an investigation, it must secure the approval of the full Grand Jury to continue. If the investigation is approved, the committee chairperson assigns the task to an “investigative subcommittee” consisting of two or more members of the committee. This subcommittee is then responsible for collecting documentary and testimonial evidence and writing a draft report. The progress of the investigation is reviewed periodically by the whole committee and the full Grand Jury.

When the investigation is complete, the subcommittee drafts a report detailing the material facts, findings and recommendations for remedial action. The draft is reviewed and revised as necessary by the committee to ensure that it complies with all substance and format prerequisites of a Grand Jury report. The draft report is then forwarded to the editorial committee for further review and analysis to insure that the findings are supported by evidence, that the recommendations are responsive to the findings and that the proper investigative procedures have been followed.

All findings and recommendations of Grand Jury reports are based on the review of documents, other pertinent evidence, and interviews. Each interview is attended by a minimum of two grand jurors. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the presiding judge, or other judge appointed by the presiding judge, of the Superior Court (Pen. C. §§ 911, 924.1(a), 929), or the identity of witnesses except upon an order of the court for narrowly defined purposes (Pen. C. §§ 924.2, 929). Hence, Grand Jury reports are not based on conjecture or opinion, but on documentary evidence and testimony.

Ultimately, the proposed report is transferred to the full Grand Jury for review. The Grand Jury has plenary authority, by a vote of 12 or more of the 19 jurors, to approve, revise or reject the proposed report. It is then returned to the Editorial Committee for processing. If the report is approved, it is forwarded to the Grand Jury’s advisor judge for jurisdictional review and to the county counsel for review as to compliance with legal requirements. Their approval does not connote an agreement with the substance or merit of the report, or with its findings or recommendations. If the judge or county counsel approve the report with comment, the comments will be reconciled by a special committee.

Hence, every member of the Grand Jury is directly involved in the formulation of a report. It is

the product of the entity as a whole, and not the work of any individual juror or committee. The 2006-2007 Sacramento County Grand Jury is satisfied that the reports contained in this volume are fully qualified for publication. Copies of Grand Jury Final Reports are available at www.sacgrandjury.org, and can be accessed through the Sacramento Public Library.

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. Also indicate what resolution you are seeking. 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



SACRAMENTO COUNTY GRAND JURY COMPLAINT FORM

A major function of the Sacramento County Grand Jury is to examine local county and city government, special districts, school districts, and any joint powers agency located in the county to ensure their duties are being carried out lawfully.

The Grand Jury:

- May review and evaluate procedures used by these entities to determine whether more efficient and economical methods may be employed.
- May inspect and audit the books, records and financial expenditures as noted above to ensure that public funds are properly accounted for and legally spent.
- May investigate any charges of willful misconduct in office by public officials.
- Shall inquire into the condition and management of the public prisons within the county.

Anyone may ask the Grand Jury to conduct an investigation of an issue within its jurisdiction. Whether it chooses to investigate such a complaint is entirely in its discretion and may be affected by workload, resource limitations or legal restrictions. It is important to note that the Grand Jury may

not investigate a matter that is currently being litigated in the court system.

By law, the proceedings of the Grand Jury are confidential. The findings and recommendations and issues it chooses to address are published in its final report.

COMPLAINT PROCESS

- Present your complaint as soon as possible. The Grand Jury's term of service begins July 1st and ends June 30th of the following year.
- Identify your specific concern and describe the circumstances as clearly and concisely as possible.
- Document your complaint with copies of pertinent information and evidence in your possession.

Mail or deliver your complaint in a sealed envelope to:

**Sacramento County Grand Jury
720 - 9th Street, Room 611
Sacramento, CA 95814-1302**

Complaints submitted to the Grand Jury will be treated confidentially whenever possible. However, it may be impossible to conduct an investigation without revealing your name and complaint.

Grand Jury investigation reports are published in its Final Report, which is available to the residents of the county. Public entities and officers who are the subjects of the reports are required to respond.



2006 - 2007 Year in Review

2006 – 2007 YEAR IN REVIEW

Introduction

Each of the Grand Jury investigative committees, as delineated in the section titled “Formation and Organization of the 2006-2007 Sacramento County Grand Jury,” has provided a description of its responsibilities and activities undertaken during the 2006-2007 term. Following the committee descriptions are brief narratives of some specific committee activities, presented as informal summary reports. These informal summary reports are provided for information purposes only and, therefore, do not require any responses from the agencies addressed within each committee report.

Administrative and Municipal Affairs Committee

The Administrative and Municipal Affairs Committee 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, policy and procedure manuals, and any other pertinent information relevant to complaints concerning any municipal agency within Sacramento County.

This year, the committee received 21 complaints, opened 15 for investigation, and investigated three complaints carried over from the 2005-2006 Grand Jury. The committee also reviewed the various emergency call centers in Sacramento County. In addition, the committee observed the process of the November 7, 2006, general election.

Emergency Call Centers

Background

Each emergency call center is located within one of six communication centers in Sacramento County. When residents of Sacramento County face an emergency and dial 911, they are immediately connected to one of these six communication centers, unless they dial from a cell phone, in which case they are connected to the California Highway Patrol.

The communication centers in the county are the Sacramento County Sheriff’s Office and the police departments in the Cities of Sacramento, Folsom, Elk Grove, Galt and Citrus Heights. Folsom, Galt and Sacramento have had communication centers for years. Elk Grove and Citrus Heights opened new communication centers last year. The City of Rancho Cordova contracts with the Sacramento County Sheriff’s Office for dispatch services. The City of Isleton contracts with Solano County for dispatch services.

The communication centers were found to have sophisticated, up-to-date computer equipment

available, and calls are handled by a technically competent, well trained and capable staff.

The six communication centers in Sacramento County and many others in the geographical area, such as Yolo County, are all users of the Sacramento Regional Radio Communications System (SRRCS). The SRRCS is a regional partnership that supports a network of radio communications equipment. SRRCS has been in place since 1992, and members meet weekly. There are formal standard operating procedures and there has been success in the use of these policies and procedures.

The federal Department of Homeland Security recently issued Tactical Interoperable Communications Scorecards assessing the communications capabilities of 75 urban/metropolitan areas. The Sacramento urban area received favorable scores and was encouraged to continue what they are doing.

Observations

The committee toured the Sacramento County Sheriff's Office, Sacramento Police Department and Elk Grove Police Department communication centers. The committee also sent an extensive survey to each communication center regarding equipment, interoperability, staffing, training, call volume, budget and potential consolidation with other centers.

The response to the surveys, and information gleaned from meetings with officials who staff the various facilities, indicated that the Sacramento County local law enforcement authorities have adequate systems and network security, as well as good disaster recovery plans in the event of a system breakdown. All of the centers appear to be making effective use of COMMLINK, a tool which allows dispatchers to patch multiple law enforcement agencies on various radio platforms.

The total annual costs of operating the six centers is approximately \$20 million, although this is difficult to estimate since each jurisdiction uses different accounting factors in determining costs. There is a wide variance in the physical facilities that house the computer equipment and personnel. The Cities of Sacramento and Elk Grove have new facilities which opened within the past two years that are state-of-the-art insofar as providing a good work environment is concerned. The City of Sacramento facility, for example, has gym facilities and rest areas for employees which may help reduce the stress inherent with the job. Sacramento also has up-to-date facilities for training employees for operations in the other five centers. The County of Sacramento Sheriff's communication facility will soon have a much needed upgrade, when the move from a downtown location to a renovated building in the south county is completed.

The committee observed what appears to be a duplication of efforts and dollars spent on providing identical services to the county's population. For example, use of the City of Sacramento Police Department training facilities by the other five jurisdictions would eliminate the need for each center to have its own training facility. Wage competition between the different centers can be costly, as there have been incidents in the past where workers leave one facility for another to gain better wage and benefit packages, causing staff turnover. Ongoing improvements in technology will result in each center's likely purchase, at great expense to taxpayers, of the newest technology, when centralization or consolidation of computer upgrades may reduce costs.

The committee recognizes that there are strong political considerations that cause the highest level managers of each of the six communication centers to maintain and preserve their independence, as well as protect their interest in hiring and managing their own employees. However, it appears that costs will increase and the duplication will continue as more areas become cities and open their own communication centers. The committee proposes that the County Board of Supervisors and each of the mayors and councils of the five city jurisdictions should establish a commission or a study group for the purpose of determining the possibility of cost saving measures that could be obtained by merging and consolidating any one or more of the functions of the communication centers.

Election Observers Panel

Prior to the November 7, 2006, general election, grand jurors met with the Registrar of Voters (Registrar) and other officials of the Sacramento County Department of Voter Registration and Elections for a briefing on the conduct of elections generally, and specifically, polling place operations. Thereafter, grand jurors took advantage of opportunities to participate in precinct officer training sessions, and served as precinct observers. Over 40 polling sites were visited by Grand Jury members during polling hours on Election Day to observe election officials and precinct procedures, and to interview voters about their voting experience. Grand Jury members who visited these polling places reported that overall, the Registrar did an effective, efficient job in providing polling places, conducting the election, and collecting and counting ballots.

For the November 2006 election, there were 624,444 registered voters and 368,162 (or 58.95%) actually voted. Of these, 184,815 cast absentee ballots, and 183,347 voted in person at one of 500 precincts. The ballot for this election was particularly long, as there were contested and uncontested races for federal, state and county offices, as well as special districts (e.g., school boards, and utility, flood control and other special districts); and there were at least 17 propositions on many Sacramento County ballots. There were 178 different ballot types required to take into account election variances in different geographical areas of the county.

The Registrar conducts many voter registration programs, including outreach efforts to potential voters in county high schools. The Registrar also conducts outreach and educational programs for those interested in casting absentee ballots. The Registrar conducts mandatory training programs for precinct officers and teams of four or more precinct workers, and distributes an extensive manual with “how to” and “what if” text and photographs, as well as the hands-on opportunity to operate new electronic ballot marking and tabulation equipment. Voting throughout the county involves the marking of a paper ballot, appropriately preserved as a paper trail that is then electronically counted and tabulated. The county also uses AutoMARK voter assist terminals, a ballot marking system designed to provide privacy and accessibility to voters who are vision impaired or have a disability or condition that would make it difficult or impossible to mark a ballot in the usual way. This technology also provides language assistance to voters who are more comfortable speaking a different language or who need help to better understand written instructions.

The Grand Jury did observe some problems and “glitches” in the absentee voting process and at polling places. For example, due to breakdown in communications between the Registrar, the

printer, and a mailing contractor, some citizens were initially sent an absentee ballot that did not contain a correct listing of candidates and propositions for their particular precinct, but this was quickly corrected by new mailings in all questionable areas, and strong liaison with local newspapers reminding voters to check identification numbers on their ballots to assure the correct precinct candidates and propositions. In addition, there was concern that the long ballot weighed over an ounce, therefore requiring additional postage, but to the Registrar's credit, arrangements were made with the post office guaranteeing the processing of all under-stamped ballot return envelopes to be delivered at the county's expense, thereby assuring the right to vote for those few who did not use the appropriate postage.

During the course of polling place voting, there were occasions when some questions regarding proper registration and voters' arrival at the incorrect polling place were raised. However, the Registrar provided telephone hot-line services, that were an effective way of resolving problems, and if not immediately resolved, a provisional ballot process was implemented. There were occasions when electronic vote count and tabulation scanners, and AutoMARK machines, did not appear to work properly, but for the most part, these problems were quickly remedied by either experienced precinct officers, or immediate technical assistance from the Registrar by a mobile team of experts. All polling sites appeared to be handicap accessible. Some polling sites had inadequate parking space, long wait times to obtain ballots, and an inadequate number of polling booths, but the Registrar has made assurances that attempts will be made to remedy these sometimes unpredictable problems. Poll workers were helpful and knowledgeable in providing assistance to voters and voters responded favorably to inquiries regarding their voting experience.

The County Registrar's Office, staffed by 36 full-time and 75 temporary employees and over 4,000 paid volunteer workers, lived up to the motto: "We proudly conduct elections with accuracy, integrity and dignity."

Criminal and Juvenile Justice Committee

The role of the Criminal and Juvenile Justice Committee (CJJ) is to review and investigate complaints regarding the criminal justice agencies within Sacramento County. Through the annual inspection of correctional facilities and investigation of criminal and juvenile justice issues, CJJ ensures that the agencies comply with specific policies and procedures.

During the year, CJJ received 25 complaints from citizens. Ten of the complaints were investigated. Of the complaints investigated, two reports were issued by the full Grand Jury and are included in this final report. Complaints investigated, but not reported on, included law enforcement violations of rights, abuses and retaliation(s), District Attorney's Office hiring practices, and California State Prison mishandling of legal mail, including a missing IRS refund check.

CJJ also arranged the Grand Jury's mandatory tours of correctional facilities. The California Penal Code section 919(b) requires that the Grand Jury inquire into the condition and management of the prisons. CJJ provided the full Grand Jury with a briefing prior to most visits. During its tours, the Grand Jury was briefed by correctional staff and spoke with staff, wards and inmates. The Grand

Jury toured the facilities, inquired about medical services, educational and vocational programs, and observed facility conditions.

In addition to the two formal reports on Rio Cosumnes Correctional Center and the Sacramento County Work Release Facility, which are set forth herein, the Grand Jury also toured the following facilities commented on below.

California State Prison, Sacramento

Background

In October 1986, California dedicated a new prison adjacent to Folsom State Prison. The new prison originally called “New Folsom” was renamed California State Prison, Sacramento (CSPS).

The entrance to CSPS is located on Natomas Street, adjacent to the City of Folsom Police Department. Folsom State Prison shares a road with CSPS. Both prisons are located in the eastern portion of Sacramento County within the City of Folsom. The undeveloped areas of the property are home to deer, wild turkeys and other wildlife.

As of March 2007, CSPS is authorized 1,016 custody staff, 287 non-sworn support staff, 20 education staff and 260 medical staff with an annual budget of approximately \$187 million. Although the design capacity for CSPS is 1,788 inmates, there are approximately 3,104. The facility houses Level I and Level IV inmates.¹ In addition to its administrative segregation unit, the facility has the 180 degree² Level IV design housing units and several gym housing units. The number of inmates with immigration holds is approximately 200-300. Approximately 32% of the total population is committed to prison for life. A little more than half of the inmates have reading levels below fourth grade. There were 27 attempted suicides and 3 verified deaths as the result of suicides in calendar year 2006.

CSPS provides general and specialized medical services to all inmate-patients through Nursing Triage, Primary Care Provider system and community providers. The institution has two licensed

¹ Level refers to a written classification plan designed to assign inmates to housing units and activities according to the categories of sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior and other criteria which will provide for the safety of the inmates and staff. Inmates who require housing in minimum-security are housed in a Level I facility. Level IV inmates refer to inmates who are serving long-term sentences, as well as inmates who have proved to be management problems at other institutions. The California Department of Corrections implemented a set of determinants for housing Level IV inmates. Level IV inmates are typically housed within correctional facilities with either the 180- or 270-degree design. CSPS has a 180-degree design. Inmates fitting the high security needs profile are those identified as validated gang members, those recently released from a security housing unit, new life-without-parole commitments, or inmates who have exhibited recent violent or escape tendencies.

² The “180-degree” design refers to the configuration of the cellblocks (housing units). The cellblocks are partitioned into three separate, self-contained sections, forming a half circle (180 degrees). The partitioning of sections, blocks, and facilities ensures maximum control of movement and swift, decisive isolation of disruptive incidents, thereby ensuring effective overall management of a large inmate population.

Correctional Treatment Centers and an Outpatient Housing Unit to care for inmate-patients with medical problems. Mental Health services include the Psychiatric Services Unit, Enhanced Outpatient Programs, Correctional Clinical Case Management System, Mental Health Outpatient Housing Unit and Mental Health Crisis Beds.

Observations

The Grand Jury toured the facility including the kitchen, classroom, housing units and administrative segregation unit. Interviews were conducted with an Associate Warden, the Appeals Officer, a Captain and the Warden. In response to complaints received by the Grand Jury, jurors interviewed inmates. The Grand Jury also received a status briefing from the on-site liaisons for *Coleman*, *Plata* and *Perez*, the three lawsuits³ which put prison medical, dental and mental health services in federal receivership.

The Grand Jury was advised that the prison provided for several vocational and academic programs. Two of the academic and vocational programs of note are: Arts in Corrections Program (AIC) and Career Technical Education-Carpentry Program.

The AIC is a multi-disciplinary instructional fine arts program that provides opportunities for inmates to participate in hands-on experiences in a variety of fine art and fine craft disciplines through the presentation of classes, workshops and performances. Beyond learning an art skill, the anticipated outcomes of the program include, but are not limited to, the development of communication skills, increased self-motivation, ability to complete tasks and projects, development of critical thinking and creative problem solving skills, ability to receive and give constructive criticism, and an overall increase in self-esteem.

The Career Technical Education-Carpentry Program had a graduation for 12 inmates from CSPA at the Modular Building Enterprise on February 13, 2007. This is the second class to graduate. The inmates were enrolled in the carpentry union and given tools to start their trade.

³ *Coleman v. Wilson*: The court found that the entire mental health system operated by the California Department of Corrections (CDC) was unconstitutional and that prison officials were indifferent to the needs of mentally ill inmates. All CDC institutions are presently being monitored by a court-appointed special master to evaluate the CDC's compliance with the court's order. *Plata v. Davis*: In a prison class action lawsuit, prisoners alleged that California officials inflicted cruel and unusual punishment by being indifferent to serious medical needs. A settlement agreement filed in 2002 requires the CDC to completely overhaul its medical care policies and procedures, and to direct significant resources to ensure timely access to adequate care. The settlement allows the state to phase in the new policies and procedures over several years and gives an independent medical panel the responsibility to audit the state's progress. *Perez v. Tilton*: An amended stipulation filed in this federal class action lawsuit on August 21, 2006 requires the California Department of Corrections and Rehabilitation (CDCR formerly known as the CDC) to provide adequate dental care for state prisoners. Pursuant to this federal court order, the CDCR must implement new procedures and policies to ensure that prisoners receive competent and timely dental treatment. Compliance is to be monitored by the prisoners' attorneys and their consultants, as well as independent court-appointed experts.

Folsom State Prison

Background

Folsom State Prison (Old Folsom) is California's second oldest prison, and was known for its harsh conditions in the decades following the California gold rush. Construction of the facility began in 1878 on the site of the Stony Bar mining camp along the American River. The prison officially opened in 1880 with the transfer of 44 inmates from San Quentin Prison.

Old Folsom was one of America's first maximum security prisons. A total of 93 prisoners were hanged at Old Folsom between December 13, 1895, and December 3, 1937, after which time executions were carried out in the gas chamber at San Quentin Prison.

The location for Old Folsom, on approximately 882 acres within the present City of Folsom, was selected due to an abundance of native granite stone for building the prison. Also, the American River offered ample water and formed a natural boundary. Inmate laborers built the first dam and canal on the American River, which led to the first hydroelectric power plant for the Sacramento area.

Although Old Folsom was originally a maximum security prison, it now primarily houses medium security prisoners. The granite walled security perimeter encompasses four general population cell blocks and an administrative segregation unit.¹ There are two dining halls, a large central prison exercise yard, and two smaller exercise yards. Inmates are housed in cells originally designed for one inmate, but now house two. All cells include toilet, sink, bunks and storage space for inmate possessions. The original cell block, still in use today, has solid boiler plate doors in stone cells measuring six feet by eight feet with six inch eye slots. Air holes were drilled into the cell doors in the 1940s.

The Prison Industry Authority operates three factories inside Old Folsom. The license plate factory manufactures vehicle plates for the entire state of California. There is also a metal fabrication and sign shop and a furniture factory.

Vocational and academic classes are offered to the inmates. Vocational training includes auto body repair, auto mechanics, welding, building maintenance, electronics, graphic arts, janitorial, landscape gardening, masonry, cabinetmaking, and office services. Academic classes include adult basic education, high school GED, English as a Second Language, literacy program and computer assisted instruction.

Old Folsom's operating budget for fiscal year 2006-2007 is \$118 million. Old Folsom has a staff of

¹ Administrative segregation can be used for inmates who are "prone to: escape, assault staff or other inmates, disrupt the operations of the jail, or likely to need protection from other inmates Administrative segregation consists of separate and secure housing only, but shall not involve any other deprivation of privileges other than what is necessary to obtain the objective of protecting the inmates and staff." (Cal. Code Regs., tit. 15, §1053.)

approximately 1,000 employees: 625 sworn peace officers and 375 support services staff. There are currently over 4,000 inmates at Old Folsom, which is double the intended capacity.

Observations

The Grand Jury toured the facility, viewing cell blocks and exercise yards. Although the prison is old, officials have attempted to update the facility where possible. The Grand Jury observed crowded conditions within the facility that may compromise the safety of the inmates and correctional employees.

Sacramento County Main Jail

Background

The Sacramento County Main Jail (Main Jail) was completed in 1989. It is conveniently located downtown near the main courthouse and the interstate freeway system. Although it was originally designed as a single bunk cell system it is currently almost totally configured for double occupancy. The maximum occupancy is 2,420 and on the day of the Grand Jury's visit there were 2,402 inmates. Most of the inmates are awaiting trial or adjudication of their cases. Each year the main jail receives (books) approximately 55,000 individuals who have been detained and arrested in Sacramento County.

There are 198 peace officers on staff, well below the authorized staffing of 239 deputies. In addition there are more than 100 support staff including medical personnel. The average age of the guards is 34. For many officers this is their first duty following training.

Observations

The Grand Jury was given an informational briefing by the Main Jail staff, and following the briefing inspected many of the jail's functional areas including: the intake department (booking), the intake medical evaluation section, the detoxification cells, the inmate cells, the food service facilities and the medical sick call units. Jurors also had the opportunity to speak with guards and inmates.

2006 Correctional Facility Audit

Following their August tour of the Main Jail, the Grand Jury learned of an audit that was performed on local correctional facilities. The Sacramento County Board of Supervisors authorized a comprehensive audit of the Sheriff's Department Jail Operations on January 31, 2006. This review was performed by Joseph Brann and Associates and was submitted to the Supervisors on June 20, 2006. The scope of the audit included an examination of current practices and recent improvements in the handling, processing and treatment of inmates by reviewing:

- Exit interviews with inmates
- Cameras and other technology
- Screening and classification of inmates

- Access to medical care
- Use of force policy
- Management and supervision of officers

The audit also examined other aspects of jail operations including:

- Litigation
- Complaints/grievances
- Staffing/vacancies
- Experience levels of the staff

The report that was submitted in June 2006 directed the Sheriff and County Executive to “evaluate the consultants’ recommendations and report back on said recommendations and possible implementation in approximately 90-120 days.”

On October 31, 2006, the Sheriff’s Department submitted to the Board of Supervisors its response to the jail operations audit. The jail management agreed with all 38 of the audit recommendations and described how they would comply with each recommendation. Interested individuals can obtain a copy of the audit and/or reply by contacting the Board of Supervisors or the Sheriff’s Department.

Sacramento County Juvenile Hall

Background

Juvenile Hall provides detention of youth awaiting appearances in adult or juvenile court, serving time, or pending placement or delivery to other programs. Probation Department staff supervises youth programs that encourage appropriate conduct through behavior modification, education, recreation and counseling. The facility has ten living units with a state certified capacity for 261 residents. At the time of the visit there were approximately 273 residents and it was reported that chronic overcrowding of the Juvenile Hall has been a problem. Juvenile Hall has undergone an expansion that added 90 new beds in early 2007. As wards are moved to the new beds from the older living units the old units will be closed and renovated. Renovations of the ten living units will not be completed until 2010. Juvenile Hall received funding approval in February 2007 for an additional 60 beds and 60 shelled-out beds, i.e., beds that can be made ready as needed. In addition, the contract with Yolo County for 15 beds is being increased to 30 beds on July 1, 2007.

Observations

The Grand Jury toured the clinic, kitchen, bathroom facilities, residents’ rooms and classrooms. Grand Jury members also interviewed several residents. Due to a pending lawsuit, no further comment will be made prior to the disposition of that case.

Warren E. Thornton Youth Center

Background

The Warren E. Thornton Youth Center (WETYC) is a 110 bed coed post commitment facility for juvenile offenders ages 12-18, who range from those who have been committed to placement at WETYC to a small number of offenders who have been to court and are awaiting sentencing. The program provides a structured environment that consists of a residential component, followed by a period of intense community supervision.

“The mission of the WETYC is to provide youth with an environment that facilitates offender accountability, competency development, and victim restoration”.

Observations

The Grand Jury toured the kitchen, bathroom facilities, residents’ rooms and classrooms. Grand Jury members also interviewed several residents. Due to a pending lawsuit, no further comment will be made prior to the disposition of that case.

Sacramento Assessment Center – IMPACT Program

Background

The Sacramento Assessment Center (Center) is a 21 bed, non-secure, coeducational, pre-placement facility located near the Juvenile Hall for low-risk juvenile offenders. When a juvenile offender is identified who may benefit from a less severe punishment than incarceration and the case has been adjudicated, the Center performs a comprehensive assessment to determine placement needs. It uses the IMPACT (Integrated Model for Placement Case Management and Treatment) program as a tool to develop a case plan. The goal of this plan is to assign the minor to the most appropriate placement available by identifying the treatment and/or services that best address his or her situation. The team consists of a deputy probation officer, a psychiatrist, a psychologist, a social worker and an occupational/recreational therapist to determine the performance level of the subject in ten areas. These include criminal proclivity, education, psychological and psychiatric adjustment, medical history, social interaction and recreational interests, vocational skills, substance abuse history and family dynamics.

Observations

The Grand Jury toured the kitchen, bathroom facilities, residents’ rooms and classrooms. Grand Jury members also spoke to several residents. Due to a pending lawsuit, no further comment will be made prior to the disposition of that case.

Sacramento County Boys Ranch

Background

The Ranch is a secure 125-bed facility designed for male wards with a history of serious and/or repeated offenses. The facility was opened in 1960 and for the first time since, the demand exceeds the bed capacity for wards to be committed to the Boys Ranch. The average stay at the Boys Ranch is 122 days. The program focuses on education (reading and math) and vocational training. There are four vocational training programs: building maintenance and repair, computer graphics, landscaping and welding.

There is not an equivalent facility for girls.

Observations

The Grand Jury toured the kitchen, bathroom facilities, residents' rooms, and classrooms. Grand Jury members also interviewed several residents. Due to a pending lawsuit, no further comment will be made prior to the disposition of that case.

Education Committee

The Education Committee is authorized to review the activities of school districts within Sacramento County, as well as the Los Rios Community College District. The committee responds to citizen complaints alleging school district irregularities and initiates investigations into various education issues, including those programs associated with correctional institutions within Sacramento County (e.g., Juvenile Hall, Boys Ranch, etc.) which fall under the jurisdiction of the Sacramento County Board of Education.

During its term, the committee received a citizen complaint regarding procurement procedures at one of the school districts. The committee opened an investigation and upon further examination and review determined that the complaint would be more appropriately handled through the civil court system and closed the investigation.

Members of the committee met with the County Superintendent of Schools and discussed a number of topics of interest to the committee and other areas for potential investigation. Specifically, the committee was interested in learning more about the various programs being instituted county wide to help bridge school, college and workforce readiness, including, but not limited to, Regional Occupational Programs (ROP) and Advancement Via Individual Determination programs (AVID).

The committee obtained and reviewed the appropriate "School Accountability Report Cards" for a number of high schools, prepared in accordance with State Board of Education guidelines. The committee then formed teams and toured four high schools in Sacramento as a follow-up to those reports.

Grant Union High School

Grant Union High School is the oldest high school in the Grant Joint Unified School District. It has an enrollment of approximately 2,100 students made up of a diverse population with Hispanics, Asians and African Americans as the largest three. Grant is a comprehensive high school, serving grades 9 through 12. The school's goal is to graduate students prepared to go to college or directly to work. Many programs are in place to achieve this goal.

To support the rigor of classes and prepare for college entrance, Grant offers programs such as AVID that support students academically during the school day and tutoring in all subjects after school. Qualified students may enroll in the Advanced Placement (AP) courses in Art, English, Mathematics and Social Sciences in order to take college-level courses and exams while still in high school.

To provide students the opportunity of vocational education, Grant offers a wide range of career and technical pathways, e.g., the Criminal Justice Academy, the Environmental Science Academy, the Maritime Academy (new this year) and various business and ROP classes. Junior Reserve Officers Training Corps (JROTC) is offered to students in lieu of the two year physical education requirement.

The new principal for the 2006-2007 school year, who replaced a long-term principal, appears to have made a smooth transition into his new position. During the tour students greeted the principal by name; he knew many of their names as well. His enthusiasm for the school is obvious and his vision for all students to succeed is his motivating goal.

Many extracurricular programs are available to students as well as a large after school sports program. The winning "Pacer" football tradition is a source of pride for the students and the surrounding community.

Luther Burbank High School

Members of the Education Committee visited Luther Burbank High School and toured the grounds, observed some classes and noted the discipline during class change. The facility grounds were pleasant, appeared to be well maintained and incorporated art work produced by students. Students appeared generally well disciplined and there did not appear to be any undue tension.

Under the Small Learning Community (SLC) organization used at Luther Burbank, the school is divided into seven communities of students and teachers that go from grades nine through twelve together. Each SLC has a vocation or career path identified: Health & Fitness, Public Service, International Studies, Architectural & Industrial Technology, Arts & Communication, Business & Entrepreneurship and Information Technology. Core subjects are taught in relation to the SLC career path. This arrangement is intended to give the students a closer bond with the teachers and build trust. The classes visited were orderly and the students appeared to be engaged. Life skills lessons, such as the importance of showing up for work on time, are incorporated in the subject matter. Also,

there was a strong emphasis on the importance of reading and math for success in any job.

Luther Burbank has a very diverse student body with a large number of English language learners from as many as 30 cultural backgrounds and multiple language groups. Many of the students arrive with no formal education, even in their own language, and no English language experience. However, the school must try to prepare them to pass state required tests in as little as two years.

The goal of the school principal and his staff is to keep the student in school and motivated through individual help and by addressing family issues. The staff stresses to the students the importance of their accepting “ownership of goals” for success.

Natomas High School

Natomas High School is in the Natomas Unified School District and accommodates approximately 2,100 students. The school has a diverse and varied cultural makeup, with the highest percentage of students being Hispanic and African American, reflecting the demographics of the Natomas community in which it is located. The school opened in 1997 and appears to be in a good overall state of repair.

The tour of the school was conducted by one of the vice principals, an individual whose exuberance and dedication to the students impressed the team members. There is a stated goal “to change the mindset of the student to develop higher self-esteem.” Although, according to the discussions, a very low percentage of students are likely to be college bound, the team was informed that the school is seeking to actively engage students in workforce and other programs to help them succeed in the future with such innovative approaches as Student Success Teams and programs that encourage active parent involvement in student progress. There are Advanced Placement (AP) classes for achieving students, AVID programs for students performing in the middle ranks of the student body and intervention programs for lower performers. Specific work experience classes include topics such as resume preparation, interview skills, employment issues, guest speakers and worksite visits. There are active ROP and other career preparation programs such as automotive, construction, industrial technical classes, forensic science and dramatic arts classes. There is also a very successful four year Air Force JROTC program administered by personnel who impressed the team as individuals who seemed to be truly interested in motivating their students and have had success in increasing the grade point averages for many of those enrolled in the program.

One of the challenges being faced by this school is the constant mobility of a large percentage of the student population, i.e., while the numbers remain the same, the faces are changing.

Valley High School

Members of the Education Committee visited Valley High School in the Elk Grove Unified School District where they were briefed by the principal. The principal conducted the tour of the school, answered questions and introduced various members of the staff and some students. Although the

campus was built 30 years ago, it has recently been modernized and appears well maintained and clean.

The current enrollment is about 1,700 students, down from about 2,700 ten years ago. The enrollment goal is from 1,800-2,200 students. Last year about 25% of the students were considered English language learners with about 21 language groups represented.

Valley's curriculum includes "Special Academies" such as Tomorrow's Employees in Careers in Health (Health TECH), which provides a school-to-work educational experience, and a Teacher Academy, designed to prepare students for teacher training programs. An Air Force JROTC program, an AVID program and advanced courses for Gifted and Talented Education students are also offered.

The committee toured the school campus during the lunch periods and the students appeared orderly. The school seems to have dealt quite successfully with student cell phone issues by a progressive discipline program.

Environment, Public Works and Special Districts Committee

The Environment, Public Works and Special Districts Committee has the authority to review city and county government agencies and all special districts in Sacramento County. The committee received three citizen complaints. Each was considered but not opened for investigation. One holdover complaint from the 2005-2006 Grand Jury was also considered but not opened for investigation.

Three investigations were generated by the committee. The results of two of the investigations, concerning Sacramento County flood risk and SMUD's Rancho Seco nuclear waste, are reported in this 2006-2007 Grand Jury Final Report. The third, concerning safety in the American River Parkway is summarized as follows:

Safety in the American River Parkway

Background

The committee visited the Sacramento County Department of Regional Parks (Department) to assess the degree of safety afforded to users of the American River Parkway. The parkway consists of approximately 4,600 acres containing 82 miles of trails, including 26 miles of bike trails, and 26 miles of equestrian trails. There are approximately 600 acres of developed land for parks, picnic sites, the Effie Yeaw Nature Center, two golf courses, six boat ramps and a pier. The parkway is accessible from a number of locations. It is estimated that over five million visitors enjoy the parkway annually for fishing, boating, rafting, hiking, biking and leisure every year.

Twenty-two park rangers, who are sworn peace officers with full law enforcement authority, patrol

the parkway by pick-up trucks and motorbikes to ensure the safety and security of the park and its visitors. The rangers normally operate in two shifts with overlap at the busiest time of day. In spite of the large number of users, the incidence of crime is very low and most citations are written for ordinance violations such as illegal parking or camping. Disturbance control has been helped by the recent decision of the Sacramento County Board of Supervisors to limit alcohol use in parks on holiday weekends.

The Department has established an e-mail network with various volunteer groups that regularly use the parkway so there can be instant communication with hundreds of people if help is needed to look for suspicious or unruly people.

In addition to patrol and enforcement, the Department has an excellent information program to advise users of park hazards and to encourage an “Exercise With a Friend” approach. A park user may encounter snakes and wildlife or be involved in an accident and a companion could be of assistance. However, many users hike, bike, walk or run alone. Phones are available at every mile on the bike trail to give direct contact to the Ranger Dispatch Center.

Conclusion

The committee was satisfied that the Department is doing a good job of providing security and safety for the visitors to the American River Parkway.

Health and Human Services Committee

The role of the Health and Human Services 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 Administration/Public Guardian, Senior and Adult Services, Children’s Protective Services and Welfare Fraud. Tours were conducted of many of these agencies or divisions, including the Coroner’s Office and the County Primary Care Clinic.

The committee initiated a number of investigations, two of which resulted in reports which are included in this Final Report. They are: “The Sacramento County Primary Care Clinic,” and the “County Heat Emergency Response.” Other investigations were not completed due to their complexity and exigencies of time. These have been referred to the 2007-2008 Grand Jury, and remain confidential.



2006 - 2007 Reports

2006 – 2007 REPORTS

North Natomas: Development Gone Awry

Issue

Does the reality of the development in North Natomas today reflect the City of Sacramento's original planning goals?

Until minimum flood protection is certified in North Natomas, is public safety at risk by allowing continued development?

Reason for Investigation

The Grand Jury issued an interim report entitled "The Kings and City and County of Sacramento: Betrayal in the Kingdom?" That report noted that the arrival of the Kings put pressure on Sacramento to allow development in North Natomas. That Grand Jury investigation led to an investigation concerning the development of North Natomas.

Method of Investigation

The Grand Jury did archival research and conducted approximately 40 interviews including numerous public officials at various levels of local government. In addition, persons versed in land development, building, bonds, environmental issues, and flood issues, were interviewed.

The Grand Jury reviewed agreements, memoranda, drafts, resolutions, legal opinions, maps, correspondence, media articles and other documents including the following:

- City and County of Sacramento General Plans
- North Natomas Community Plans and Maps
- North Natomas Financing Plans
- North Natomas Nexus Study
- Environmental reports for development and planning in North Natomas
- Documents relating to floods, most specifically concerning North Natomas
- Documents relating to transportation
- Published materials
- Internet research

Executive Summary

North Natomas has rapidly developed from a flood prone agricultural area to what is, in essence, a city within the City of Sacramento. The original owners of the Kings were the primary movers for development in North Natomas. On May 13, 1986, by Resolution No. 86-348 the city amended the General Plan to allow development in North Natomas. The City of Sacramento entered into a development agreement with the Kings' owners on October 6, 1987. The city made the land use decision to allow development, in part, on fiscal considerations associated with new development. This type of land use has come to be known as "the fiscalization of land use" in California.¹ However, due to a number of reasons including flood issues, building/development did not start in earnest until 1998. The Grand Jury investigation has shown that although many officials in the City of Sacramento have been involved in the planning and development of North Natomas, there were various mistakes and shortcomings associated with the actual results. This report briefly reviews the development history of North Natomas and concludes with two major recommendations: first, a truly independent fiscal and compliance audit should be conducted regarding the planning and execution of the North Natomas development, and second, that all building, not just planning, be halted in North Natomas until the minimum 100-year flood protection is certified by the federal government.

Background and Facts, Part I

Development Criteria

The area referred to as North Natomas is bounded by Elkhorn Boulevard to the north, Interstate 80 to the south, Steelhead Creek (the Natomas East Main Drainage Canal) to the east, and the West Drainage Canal, Fisherman's Lake, and Highway 99 to the west. The area is 9,038 acres: 7,438 acres in the city and 1,600 acres in the county. The community is located in the northwest portion of the City of Sacramento and has a population of approximately 60,000 people, with shopping centers, commercial buildings, Arco Arena, and an extensive infrastructure.

Before 1961, North Natomas was in the unincorporated area of the county and was zoned for agriculture. At the request of property owners approximately 6,500 acres were annexed to the city by 1961. In the early 1960s the selection of routes for two interstate highways, Interstate 5 and Interstate 80, which now go through the Natomas area, took place. In 1973, the City of Sacramento added an Open Space and Conservation Element to its City General Plan and in 1974 adopted a City Wide General Plan which contained the city's policy against leap-frog development and encouraged urbanization only adjacent to existing urbanized areas. On April 13, 1982, the city adopted a "Growth Policy for the City" by Resolution No. 82-251 which provided in part:

North Natomas is, for the most part, high quality, economically productive

¹The California Planning Roundtable, *"Restoring The Balance: Managing Fiscal Issues And Land Use Planning Decisions In California,"* October 1997. "A policy environment in which land-use decisions are made mostly or entirely based on fiscal considerations, rather than with an eye toward healthy and balanced communities."

agricultural land and there is no suitable land in the Sacramento area which can be substituted which is not already under production; and there are no remaining physical barriers within either the city or county which will limit the extent of urbanization if North Natomas is opened for urban development.

The entire North Natomas area was designated as “agriculture” in the General Plan. Shortly after adopting the city growth policy that sought to preserve agricultural land in North Natomas, there were efforts under way to thwart the spirit and intent of the policy. Developers who had purchased the Kansas City Kings in 1983, along with others, filed five applications seeking development entitlements to convert agricultural land to urban uses in North Natomas. In December 1983, and January 1984, the applications sought development entitlements for 2,662 acres of North Natomas land designated as agricultural. The granting of the applications would require the city to amend the 1974 City General Plan or the growth policy adopted by the city council in 1982. In response to the applications, the city authorized \$1.5 million to fund the North Natomas Community Planning Studies. The planning studies’ scope of work, approved in February 1984, proposed the city coordinate with the county and the Sacramento Area Council of Governments (SACOG), in the preparation of a preferred land use plan and alternative land use plans for North Natomas. The scope of work also proposed the preparation and processing of a single environmental impact report (EIR) for subsequent city and county actions in the community plan. The city analyzed the individual land use applications which the city had received against land use alternatives in the EIR.² The planning studies ultimately led to the adoption of the 1986 North Natomas Community Plan (NNCP) and a General Plan which did open the area to development.

While the city’s planning process was progressing for North Natomas, the Sacramento County Board of Supervisors, on May 15, 1985, approved a use permit for a warehouse in the county to be used as a temporary arena on North Market Boulevard in North Natomas. The permit also allowed for rezoning the adjacent acres for office buildings. In 1985, the Kings played their first game in Sacramento in the temporary facility. The Kings’ owners, under a short time frame imposed by the National Basketball Association to build a permanent arena, increased their efforts with the city for approval to build an arena in North Natomas and to develop commercial buildings on their adjacent property. The owners of the Kings were the primary movers, with the support of other developers, to have the city allow development in North Natomas.

On May 13, 1986, the city, by resolution No. 86-348, amended the 1974 General Plan to allow development of North Natomas. Resolution No. 86-348 adopted the NNCP which provides, in part,

² Five alternatives analyzed in the EIR were:

- Alternative A: No Project. Use would remain agricultural and no additional urban growth would occur in the city area.
- Alternative B: Permit urbanization east of Interstate 5 (I-5). Area west of I-5 and a portion of the area south of Elkhorn Boulevard would remain agricultural.
- Alternative C: An estimated 31,052 housing units would be developed with an estimated total population of 63,907 persons. Under this alternative there would be a 200-acre sports complex.
- Alternative D: Allow all the area east and west of I-5 to be urbanized.
- Alternative E: Incorporate the five land use applications filed with the city for the North Natomas area. This alternative would allow for an estimated 42,752 housing units and estimated population of 76,626 persons and the 200-acre sports complex.

that development of North Natomas should be guided by the following principles and goals:

- The development will provide stimulus needed to reverse the city's long-standing inability to attract major industrial employers and new sources of employment and housing at a central urban location within the Sacramento Metropolitan Area.
- The community should contain optimum amounts of land devoted to parks, recreational facilities and open space.
- The new North Natomas Community must be financially sound. This means that the mix and intensity of land uses within the area must be financially capable of supporting not only the capital costs of the infrastructure required for its development, but also the ongoing costs of maintaining that infrastructure and providing quality public services, including the acquisition and maintenance of a regional park.
- The net tax revenues generated by development of the North Natomas Area must provide an . revenue surplus for use throughout the city.
- The initial phase of the development must afford an intensity and mix of land uses to ensure economic viability for the proposed private development of a sports arena. It should also be adequate to fund the excess capacity of the North Natomas Area infrastructure which must be constructed in that phase to serve subsequent phases of development.
- The development of the area should contain an adequate mix of employment generating land uses and housing for employees. A jobs-to-housing ratio goal of 60% is reasonable and attainable.
- The intensity and mix of land uses within the area should recognize and protect future operations of the Sacramento Metropolitan Airport.

On October 6, 1987, the city entered into a development agreement for the arena, a stadium, related parking and other facilities.

Sacramento city's stated planning goals for Natomas placed heavy emphasis on fiscal objectives: to attract major industrial employers, to provide new sources of employment, and to generate ongoing reserve surplus for use throughout the city.

The fiscal concerns facing Sacramento in 1986 were not unique to Sacramento. Proposition 13, which cut local tax revenues, has had the effect in California of forcing local government to find alternative sources of revenue for infrastructure and for providing basic services. The city and other local governments throughout California have sought ways to maximize their revenue and minimize their costs. This has led to development fees or impact fees to pay for roads, sewers and parks. Besides development fees, local governments started encouraging development that increases sales tax revenues, such as shopping malls and car dealerships. The California Planning Roundtable stated:

By its very nature, land-use planning is supposed to be a balancing act. Through the planning process, local elected officials and local citizens consider the full range of activities required to create a healthy community-housing, shopping, jobs, recreational opportunities, transportation facilities, open space.

Today, however, land-use planning no longer ensures a healthy balance in California communities. Simply put, cities and counties assess the value of new

real estate development projects by asking, Will the project bring in money – or cost money to service? Cities compete with each other for commercial centers³

By 1990, little development had taken place in North Natomas except the construction of the arena and the beginning of construction of a stadium/sports complex. After adoption of the North Natomas Community Plan in 1986, environmentalists filed lawsuits which held up development. These suits were settled in 1988. Other matters holding up development were flood issues and the reluctance of developers to agree among themselves, and with the city, on funding infrastructure and community facilities.

The city created and provides some financial assistance to the North Natomas Transportation Management Association. The Association in its literature describes North Natomas as follows:

Rising from the plains just north of downtown Sacramento, the North Natomas community is the result of a far-reaching vision, based upon brilliant planning and first-class implementation. Residents, environmentalists, planners, developers, business owners and a host of other people and organizations conceived the North Natomas Community Plan as the blueprint for this area through decades of collaboration. The result is one of the most ‘livable communities’ in the region and a community that serves as a model for the rest of the nation.

The concept as proposed for the development of North Natomas was to create small, self-contained “villages” consisting of residences, shops and work places all within walking distance. There were to be bike trails, local schools in each village, a jobs-to-housing ratio of 60%, and the attraction of new industrial employers. All of this development was to be financially capable of supporting not only the capital costs of the infrastructure required for development, but also the ongoing costs of maintaining that infrastructure and providing quality public services, including the acquisition and maintenance of a regional park.

³ The California Planning Roundtable, “*Restoring The Balance: Managing Fiscal Issues and Land Use Planning Decisions In California*,” October 1997. An in depth discussion of the Fiscalization of Land use is beyond the scope of this report. The following are informative and particularly relevant given the explosive growth of shopping malls and competition for sales tax revenue between local units of government in Sacramento County:

- Miscznski, Dean J., “*The Fiscalization of Land Use*,” in John J. Kirlin and Donald R. Winkler (Eds.). California Policy Choices, Vol. 3, University of Southern California, Los Angeles, 1986.
- Regional Tax-Base Sharing. See Sacramento Regional Smart Growth Act of 2002 (AB 680-Steinberg), Sacramento: Bill would have pooled and redistributed tax revenue, derived from new development within the Sacramento region. One third of the pooled revenue would have been redistributed to cities based on population. Another third would stay in the city where the development is located. The final third would have gone to the host city provided it meets certain “smart growth” goals, including affordable housing creation, open space preservation, and infill development. The cities in the Sacramento region opposed the bill and it did not pass.

What are the results of this model of planning and implementation?

- The city lacks the financial resources to develop all the planned parks, especially the regional park.
- No police substation has been constructed as required by the NNCP.
- The creation and maintenance of a 250 foot buffer along the boundary (Fisherman's Lake Buffer) has not been maintained.
- Natomas Landing development on 69 acres on the north east corner of Del Paso Road and El Centro Road along I-5 had been designated for office/employment complexes; it is currently planned for commercial development and will add to the already congested traffic problem at this intersection.
- It is predicted that it is going to take \$800 million to extend light rail from downtown to the airport, and to provide service to Natomas with an estimated implementation date of 2027. When the money will be forthcoming and from where is uncertain. The Grand Jury has been advised that there may be less environmentally damaging and less expensive means of providing transportation to and through Natomas than a fixed rail traversing the American River Parkway, crossing major highways and running on already overcrowded major surface streets.
- Del Paso Road, a major east west thoroughfare, has been constructed with no side walks on either side of a school. There is no sidewalk along one long stretch of the road near schools and the town center.
- Some bike trails are dangerous to enter and exit.
- There is no bus transportation on the west side of I-5.
- Population growth was underestimated by at least 10 to 15% causing under allocation for park land.⁴
- "Smart growth" principles, i.e., building communities conducive to walking, avoiding long traffic commutes for work and local neighborhood shopping, intended in the plans for the area were violated by allowing huge shopping centers to be developed that contribute to major traffic congestion and which are not transportation friendly or within easy walking distance to and from the local neighborhoods.

There is no program in place to prevent surface water pollution from being discharged into the Sacramento River. Street drains carry water directly from the street gutters into the local detention basins. Pollutants such as pesticides, fertilizers, eroded soil and oil are carried to the detention basins. There is no formal program in place to analyze the sediments and soil in the drainage detention basins to assure the public that pollutants are not being discharged into the Sacramento River.

The city provides little to no current information to keep the public informed or to help consumers educate themselves before buying a home. The city web site is difficult at best to navigate and is not kept up-to-date. Current information either is not available at public counters or does not exist.

⁴ The North Natomas Financing Plan Area had a total neighborhood and community parks acreage requirement of approximately 285 acres. Additional acreage was required to account for the difference between the planners' estimate in the North Natomas Community Plan and the city's Quimby Park Ordinance of five acres per one thousand residents which led to retention basins being counted as park land.

The development has caused ever increasing costs of providing and maintaining municipal services and amenities such as parks and a police station, while the city is left with the financial burden.

The planning and implementation of the development in North Natomas raises the following questions: Who within the city has responsibility, who has oversight of the implementation of the community plans, and who has actual knowledge of what is happening?

The city is continuing its efforts to add new areas into the development of North Natomas on the east, west and to the north up to the Sutter County line. The combined areas of the proposed developments are larger than the current developed area of North Natomas. The city is presently pursuing the following annexation and/or sphere of influence efforts: Natomas Panhandle (M05-031; PO5-077), addition of 1,465 unincorporated acres between Elkhorn Boulevard and I-80; Greenbriar (M05-046; P05-069), the addition of 577 unincorporated acres at the northwest intersection of I-5 and Highway 99/70; Natomas Joint Vision (M06-047), the addition of 25,000 acres north of Elkhorn Boulevard to the Sutter County line.⁵ All these areas, as they are developed, will pose additional traffic burdens to the existing traffic problems. In addition, these new developments will cause problems for the Natomas Basin Habitat Conservation Plan. The building and the development continue in North Natomas and the efforts to expand are progressing even though the area is at risk of flood.

Background and Facts, Part II

Development in a Flood Plain

The Natomas basin is a deep flood plain and is currently vulnerable to potential flood damage and loss of life. Following major flooding in 1986, the Corps of Engineers (the Corps) evaluated the Sacramento flood control system. It determined the system inadequate to meet the minimum 100-year level of flood protection required by the National Flood Insurance Program managed by the Federal Emergency Management Agency (FEMA).⁶ The Corps estimated that flood depths likely to result from a 100-year flood would range from two feet to an excess of fifteen feet in the Natomas basin. Under FEMA's regulations this finding would have stopped all building.⁷

In 1987, FEMA indicated it was going to redraw the flood maps to place North Natomas outside of the 100-year flood plain protection. Sacramento, in response, requested the redrawing be delayed for five to ten years. If FEMA would delay the remapping, the city could proceed with the expected growth. Additionally, property owners would not be required to purchase flood insurance. FEMA denied this request.

⁵ The sources of the numbers in parentheses and descriptions of the areas are the March 2007 City of Sacramento Annexation Status Report and the City of Sacramento Planning Department web site.

⁶ Sacramento Area Flood Control Agency, Vol. 4, Fall 2006, *Flood Watch* newsletter. "100 Year Protection: Estimated 1 in 100 chance of flooding in any given year. 200 year protection: Estimated 1 in 200 chance of flooding in any given year."

⁷ This report is limited in scope to North Natomas.

In 1988, Sacramento was successful in getting federal legislation passed delaying FEMA from using the new Base Flood Elevations (BFE) to regulate development in the Natomas flood plain until November 7, 1992. FEMA created a special A99 flood zone. Flood zones are defined by FEMA and describe land area in terms of its risk of flooding. These zones are depicted on a community's Flood Hazard Boundary Map or a Flood Insurance Rate Map. Each zone reflects anticipated severity of flooding in the area, and generally includes regulations concerning building in the zone.⁸

In February 1990, the City adopted a Land Use Planning Policy Within the 100-year Floodplain (Flood Policy). The Flood Policy imposed a de facto moratorium on residential development in the Natomas area during the period it would take to get recertified protection and imposed conditions on all non-residential building permits to meet certain criteria to minimize risks due to flood.

Sacramento's continued reliance on FEMA's minimum 100-year standard is not prudent.⁹ This is an insurance requirement, not a safety standard. Testimony supporting the authorization of the Corps' American River project before the House Interior Committee on July 23, 1992, puts this matter in perspective:

... FEMA's 100-year requirement is not a public safety standard. It is an insurance standard only, created as a compromise between the Federal government and local development interests in order to facilitate widespread participation in the NFIP [National Flood Insurance Program].

As FEMA itself acknowledges, the 100-year standard is not meant as a particular substitute for public safety determination in particular circumstances. This is because the 100-year standard is essentially a frequency threshold that takes no local variable into account, such as the depth and severity of flood damages in one flood plain versus another

The Congress passed legislation in 1992 directing FEMA to create a new "AR" flood zone designation applicable to communities such as Sacramento. The rationale was that a previously certified 100-year flood protection system had been decertified due to updated hydrologic data. FEMA was prohibited from requiring elevation of improvements to existing structures.

In 1998, the Corps certified that levee work in the North Natomas area had raised the flood protection level to the 100-year standard, and the de facto moratorium applied by the city in 1990

⁸ FEMA zones applicable to Sacramento are as follows:

AE: If building in the flood area, requires that the lowest floor of new construction be elevated to one foot above the BFE.

AR: If work is proceeding with approved levee work or dam alterations, new construction must be elevated to place the first floor three feet above the adjoining land if the expected BFE is no more than five feet above grade.

A99: A special zone for Sacramento, and a few other communities, which allows building without restriction as long as a federal levee project is underway and construction has reached a specified level.

⁹ Department of Water Resources' letter to the City of Sacramento, November 21, 2006.

was lifted. Development in the area expanded at an accelerating rate; in excess of 30,000 people have been allowed to buy, build, and live in this area historically subject to flooding.

As a result of the high water event in 2005 which exposed some levee weakness, and in view of Hurricane Katrina, The Sacramento Area Flood Control Agency (SAFCA) requested that the North Natomas flood control system be re-evaluated. The Corps found that North Natomas is without adequate flood protection. FEMA has indicated that the area will be re-mapped to reflect the newly identified risk.

However, the city allows building to go on in North Natomas even though the area is at risk of flood. In the event of the need for mass evacuation of this area, there is no way for it to be accomplished in a timely and safe manner. Some streets in Natomas could be under one foot of water and impassible in less than an hour, and there are no specifically designated shelters for the citizens to get out of a flood and wait for evacuation.

SAFCA, the Corps and Department of Water Resources (DWR) have given the city notice that the Natomas area lacks 100-year flood protection. DWR in a letter dated November 21, 2006, to the city, which was published in the newspaper stated:

It is prudent to consider additional local efforts to protect the public against this higher risk including the following:

- Limitation on new construction until minimum flood protection is achieved.
- Building design requirements on any new construction related to potential depth of flooding and resident survivability.

If the city chooses not to follow the advice of DWR concerning limiting further construction in North Natomas, could the city be held responsible for flood related damages? In considering that issue, the known foreseeable risk of flooding would be a significant factor. Unless the risk is abated, the city's reasons for allowing continued building would have to be weighed against the benefit of cessation of further development.

Findings and Recommendations, Part I

Finding 1. The planning and implementation of the development of North Natomas, and the push to develop to the Sutter County line, constitute the fiscalization of land use. In May 1986, the city rejected the no project alternative (Alternative A) and the limited development alternative (Alternative B) for fiscal reasons. The city noted when it made findings on May 13, 1986, (Resolution No. 86-348, adopting findings of fact and statement of overriding considerations supporting the NNCP and conforming to the general plan amendments), that the North Natomas area was going to grow in the unincorporated areas and other places in the region and that the city would not fiscally benefit unless it allowed the development to proceed on land within the city with full build out in the entire Natomas basin.

Recommendation 1. An independent fiscal and compliance audit needs to be conducted to determine whether the city has met the stated fiscal goals and whether development has actually been completed and built in a timely and proper manner. This audit needs to be conducted by persons versed in land use and development, fiscal issues related to development, and familiar with municipal financing. Further, the audit needs to be conducted and overseen by some entity or independent persons not in association with the city.

The audit should observe the actual results of development and compare the results to the stated goals for developing North Natomas.

The following issues need to be addressed in the audit:

1. Has the development enhanced the city's ability to attract major industrial employers?
2. Does the area contain optimum amounts of land devoted to parks, recreational facilities and open space?
3. What has been and will be the fiscal impacts of the development on the city, i.e., is the revenue derived from the development supporting not only the capital cost of the infrastructure required for the development, but also the ongoing cost of maintaining that infrastructure including the development and maintenance of the regional park?
4. Do the actual tax revenues generated by the development of North Natomas provide an ongoing revenue surplus for use throughout the city?
5. Has the jobs-to-housing ratio goal of 60% been achieved?
6. Have the various fiscal devices that the city used to assist the developers provided a clear audit trail to determine that builders/developers did what they were supposed to do with the money and in a timely and proper manner?

The audit report should be made readily available to the public at the same time it is given to the city.

Finding 2. There is no information currently being provided to the California Central Valley Regional Water Quality Control Board as to the content of the water, sediment and soil in the drainage detention basins in North Natomas. The city may be allowing untreated surface water containing pollutants, such as pesticides, to reach the Sacramento River.

Recommendation 2. The city should develop and then conduct, on a regular basis, an analysis of the water, sediments and soil in the drainage detention basins and provide that information to the Central Valley Water Quality Control Board.

Findings and Recommendations, Part II

Finding 3. The plans to evacuate the area in case of a flood event are still being developed. However, to ignore the advice of DWR and to continue allowing building in the Natomas flood plain after the city has been put on notice that it does not meet the minimum flood protection status, raise the question of potential responsibility for flood related damages and loss of life.

Recommendation 3. The city should immediately stop allowing any further building in the North Natomas flood plain. The restriction should remain in effect until the federal government certifies the flood protection as meeting the minimum 100-year flood level. The city could allow for continued planning, and the maintenance of existing structures. In addition, the city should build or retrofit community buildings to a height sufficient to enable the buildings to act as a shelter for people to gather until help arrives.

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 Superior Court by October 1, 2007, from:

- **Sacramento City Council**

Sacramento County Sheriff's Department Work Release Division

Issue

The Grand Jury evaluated the Sheriff's Department Work Release Division to determine whether the department is efficient, properly staffed and sufficiently promoted in the community.

Reason for Investigation

California Penal Code section 919(b) requires the Grand Jury to inquire into the condition and management of county jails.

Method of Investigation

The Grand Jury toured the Work Release Division facility and spoke to the following individuals:

- Administrative Supervisor, Work Release
- Supervisor and Field Coordinator, Work Project
- Sheriff's Deputies, Toy Project
- Finance and Collections Supervisors, Revenue Collections Unit
- Supervisor, Home Detention Program
- Supervisor, Revenue and Recovery Warrant Unit
- Civilian booking employee
- Inmate

The Grand Jury also reviewed:

- The Work Release Division Grand Jury Tour Booklet, August 23, 2006
- Sacramento County Sheriff's Department 2005-2006 Budget

Background and Facts

In August 2006, the Grand Jury conducted its mandatory tour of this correctional facility. The staff and deputies interviewed were enthusiastic and motivated about their programs.

Since 1979, the Work Release Division has conducted Sacramento County's alternative sentencing program for inmates. It allows qualified inmates to serve their sentences on electronically monitored

home detention or by participating in community work projects. Inmate counts usually range from 1,800-2,000 on Work Project at any one time and Home Detention is consistently over 323, and increasing.

This alternative to incarceration allows the inmates to maintain employment and family relationships. The community benefits from inmate labor provided to groups such as school and park districts, churches, civic groups and other nonprofit organizations. The county benefits from reduced jail population and related incarceration. There is also a cost recovery benefit, as inmate participants are required to pay application and daily fees based on the applicant's ability to pay.¹

Home Detention Program

Home Detention is an alternative to traditional incarceration. Participants are allowed to live in their homes and are monitored by electronic equipment that tracks their movements. The equipment also conducts alcohol breath tests randomly throughout each day for those inmates with alcohol related offenses. All participants are also required to provide samples for drug analysis when requested.

Work Project Program

The Work Project Program was created in 1978 to allow specific inmates, who are sentenced and considered low risk, to work in their community instead of serving time in Sacramento County jail facilities. Inmates are recommended by the sentencing judge to participate in the program. If accepted, they are assigned to one of more than 25 work sites throughout the county. They work one or more days per week on a work crew supervised by a deputy sheriff. Good time is computed into their sentence and release dates are adjusted accordingly.² Participants are monitored for their attitude, dress and productivity. Currently, 84 percent of inmates complete the program, and program failures are returned to jail.

There are more than 22 entities receiving the benefit of work performed by Work Project participants. The type of work ranges from cleanup after community events, weed abatement, landscape maintenance, trenching, fire breaks, trash pickup, homeless camp cleanup and debris removal. The California Penal Code limits the use of inmate labor to public domain and nonprofit entities. There are five public entity contracts for services, with each entity paying the cost of the deputy's supervision. A sheriff's deputy supervises all job sites.

Currently, one Work Project Field Operations sergeant provides supervision to 17 full-time deputy sheriffs and as many as 19 on call deputy sheriffs over a seven day week. These 19 on call deputy

¹ California Penal Code section 1208.2(g) states that participation in these programs cannot be denied due to inability to pay. According to the Sheriff's Office, up to \$40 in cost per sentence day may be assessed per inmate on Work Project, and up to \$41.73 per day may be assessed to the inmate on home detention. (The actual cost of Work Project was last calculated at \$61.03 per work day, and \$41.73 per day for Home Detention.) After waivers due to "ability to pay," and a small failure rate, actual collections for fiscal year 2005-2006 were approximately \$30.20 per work day for Work Project and \$21.16 per day for Home Detention.

² "Good time" is time reduced from an inmate's sentence for participating in a work program. "Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs." (Pen. C. §2933.)

sheriffs are scheduled from a changing roster of academy graduates and retired annuitants. Consequently, this sergeant may supervise 50 individuals annually. There is no other sergeant post in Sacramento County charged with supervising this many individuals over a seven day week.

As noted in the Work Release Division Grand Jury Tour Booklet, the Work Project has evolved into one of the largest alternative correctional programs in the nation.³ The current average number of inmates participating in the program is over 1,800 a week. Without the program, more jail beds would be required. The benefit of the labor provided by inmate work crews is worth in excess of \$5 million per year to the community.

One little known fact about the Work Project Program is that during times of local/state emergency or crisis, this group can be mobilized quickly, and up to 450 people can be placed in an area within a short time period. For example, during the 2006 flooding, Work Project inmates assisted in sandbagging efforts in high water areas.

The Toy Project

The Toy Project is a charitable function of the Sheriff's Department in which participants of the Work Project spend their sentence making toys, building furniture and refurbishing donated computers and bicycles. The Toy Project has operated since 1984 and has provided children in the community with over 60,000 gifts. In addition, it has refurbished and distributed over 5,300 bicycles. Last Christmas, food boxes and gifts were given to more than 1,200 families, with each child up to 17 years of age receiving an average of three gifts.

Although the Toy Project emphasizes the winter holiday season, it also fills special requests throughout the year from individuals and families in need. These requests come from agencies such as the Fulfill-A-Wish Foundation, Mustard Seed School, Omni Program, River Oaks Center for Children, Sacramento Children's Receiving Home, Trinity Foster Care, Wind Youth Services and other schools and organizations throughout the community.

There are several sources of funds underwriting the Toy Project. Inmate work crews participating in the Work Project collect recyclables while doing roadside cleanup. The revenue generated from recyclables is donated to the Toy Project. Also, 10 – 15 employees of the Work Release Division volunteer once a week at a local bingo hall. From the efforts of these volunteers, approximately \$600 a week is donated to the Toy Project. Partnerships with organizations such as YES (Youth Education Sports), Heald College and the Salvation Army help make Toy Project items available to children throughout the Sacramento region. The Toy Project serves as an outreach program for members of the Sheriff's Department as they work to build strong ties with the Sacramento community.

³ The Work Project Program has a current annual budget of approximately \$6 million and generated approximately \$3.7 million in fee revenues in fiscal year 2005-2006. The Home Detention Program has an annual budget of approximately \$3 million per year, and generated approximately \$1.2 million in fiscal year 2005-2006.

Power Program

The Power Program is a community correctional program that helps offenders reintegrate into the community. This innovative program also offers the offenders something tangible, increases self-esteem and encourages compliance with the Sheriff's Department alternative custody programs.

The Power Program offers educational and pre-employment skills to offenders while serving their sentence on Work Release. A wide range of resources is available such as job training programs operated by the federal government, Sacramento Employment Training Administration, California Employment Development Department and Job Club (operated by the County Department of Human Assistance).

Problem Oriented Policing (POP)

The POP officer is responsible for meeting with community members, schools, parks, churches, Sheriff Service Centers, and nonprofit community based organizations. The POP officer identifies and prioritizes work that could be accomplished in the community and coordinates with other community contacts and the Work Project to get the work done.

The POP partners with the Sacramento County District Attorney's Office Multi-Agency Graffiti Intervention Committee to identify areas affected by graffiti vandalism. Once affected areas are identified, the POP officer utilizes Work Release participants to remove graffiti and/or repaint the blighted areas. Graffiti removal is also provided to the elderly or financially challenged individuals at no cost. To date, POP has worked throughout the County of Sacramento in parks and trailway systems, wetland preserves and nature areas, historical buildings, memorial gardens, abandoned residential lots, churches, schools, parking accesses in the delta and roadways.

Findings and Recommendations

Finding 1. There is inadequate staffing in Work Project Field Operations. The Work Release Division has requested an Additional Growth Request for a position in this project five times since 2002, but the Sacramento County Board of Supervisors has denied its request due to budgetary restraints.

Recommendation 1. One additional Work Project Field Operations sergeant must be allocated to address this workload. This sergeant would share in the supervision of up to 36 deputies per week.

Finding 2. The Sheriff's Department Toy Project is a valuable asset to the community. With little public promotion or advertisement, the Toy Project provides much needed help to Sacramento's families in need. The Toy Project is a nonprofit 501c(3) organization which allows corporations and private persons to make tax deductible donations for equipment and materials in order for them to continue their mission to serve families and children in our community.

Recommendation 2. Both the Sheriff and the county should facilitate increased funding for the advertisement and promotion of this exceptional program.

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 Superior Court by October 1, 2007, from:

- **Sacramento County Sheriff**

Sacramento County Sheriff's Department Rio Cosumnes Correctional Center

Issue

The Grand Jury evaluated Rio Cosumnes Correctional Center (RCCC) to determine whether it is operating efficiently and is properly staffed.

Reason for Investigation

California Penal Code section 919(b) requires the Grand Jury to inquire into the condition and management of county jails.

Method of Investigation

The Grand Jury toured the entire facility and interviewed the following staff members:

- Sacramento County Sheriff
- RCCC Commander
- RCCC Assistant Commander
- Sheriff's Deputies
- Medical staff
- Education staff
- Food Service Training staff
- Engraving staff
- Welding staff
- Gardening and Landscaping staff
- Inmates

Background and Facts

RCCC is the primary custody facility for inmates sentenced to county jail from Sacramento County courts. RCCC also houses inmates in transit to and from other jurisdictions. RCCC is the primary reception point for parole violators held pending revocation hearings and is the transfer point for defendants sentenced to state prison.

RCCC is located 27 miles south of Sacramento on 640 acres of land. Several facilities were

constructed in the 1960s with the capacity to house 750 inmates. By the late 1970s, the institution needed to expand due to the demands of a growing jail population. Under a project called Plan 2000, facilities were remodeled and expanded. This project provided a master plan for expansion that raised the inmate capacity to 2,300. The current population ranges from approximately 1,900 - 2,100 and occasionally exceeds 2,100.

In addition to being the primary confinement facility, RCCC is equipped to accept newly arrested persons 24 hours a day. Police departments such as Galt, Isleton, Lodi and Elk Grove book the majority of their arrests into RCCC. Other agencies such as the California Department of Fish and Game, California Highway Patrol, State Parole Office, State Park Rangers and the Sheriff's Department also book arrests into RCCC.

The women's jail at RCCC, the Sandra Larson Facility, houses minimum, medium and maximum security inmates.

RCCC has approximately 140 sworn officers and 65 civilian personnel assigned to the institution.

Medical Staffing

The Grand Jury learned that the nurses had filed a grievance with Sacramento County over pay issues and staffing shortages at RCCC. There were also concerns regarding safety because there were no officers assigned to the medical unit to provide security for the nurses.

The safety issue may have been resolved since the Board of Supervisors allocated four new deputy staff for RCCC. In addition, the Board approved seven new nursing positions and one additional nurse practitioner. The Board also approved a raise in salary for the nurses.

Vocational Training

Food Service

RCCC has a food service training program. Female inmates who meet specific criteria are instructed by a professional chef in the art of cooking, meal preparation, serving, table decoration and full service restaurant work. Participation is limited due to space constraints.

Engraving Shop

The engraving shop is staffed with accredited teachers from the Elk Grove Unified School District which is under contract with Sacramento County. The shop teaches procedures and techniques by creating plaques, signs, banners, emblems, and other items, for numerous governmental and nonprofit agencies statewide. The program enrolls up to eight inmates at any time and offers a certificate of completion upon release from RCCC.

Welding Shop

The welding shop is a multifaceted repair and manufacturing area in which inmate workers fabricate, repair and maintain metal and wood items for county agencies. The shop maintains or constructs farm implements, tractors, security gates, screens, bunks, tables and specialty items. The Grand Jury observed inmates and the instructor retrofitting a police van to provide secure transportation. The instructor indicated that there is more work available, but not enough room or staff to complete similar projects.

Gardening and Landscaping

RCCC has an active horticulture program. In addition to landscaping, they produce vegetables which are used in the food service program. The horticulture program has limited inmate participation due to lack of supervisory staffing.

Findings and Recommendations

Finding 1: Noncompetitive compensation and the lack of security for medical personnel have generated complaints from medical staff.

Recommendation 1: The additional nurses and deputies authorized by the Board of Supervisors should be selected and assigned as soon as possible.

Finding 2: The few available vocational programs afford inmates the opportunity to increase their knowledge, training, self-esteem and the possibility for employment upon release. However, those programs appeared to be understaffed and lacking in resources. A complete evaluation of vocational training is needed to determine inmate needs and opportunities. Significant new resources should be devoted to vocational training, prospective employer contacts and community acceptance.

Recommendation 2: RCCC has a physical plant large enough to expand the current vocational programs and add other disciplines.

Response Requirements

Response Required: 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 Superior Court by October 1, 2007, from:

- **Sacramento County Sheriff**

The Flood Risk in Sacramento County

Issue

Is the broad public interest being served by allowing development to continue in Sacramento's high flood risk areas before the flood risk is reduced?

The Grand Jury reviewed the history of flooding in Sacramento County and focused on three items for discussion. Those items are the level of flood protection being sought, temporary cessation of development in the flood plain and flood insurance in at-risk areas.

Reason for the Investigation

Many agencies, local elected officers and other officials responsible for protecting life and property from flooding in Sacramento County have been trying to reduce the flood risk since settlement began in the area. After the Hurricane Katrina flood disaster in New Orleans in October 2005, Sacramento was identified as among the nation's most vulnerable cities to flooding. There is continuing controversy over how to achieve better flood protection.

Method of Investigation

In addition to information obtained from agency websites and printed materials, as well as from the Grand Jury's own observations while on tour in the Natomas area, officials from the following local, state and federal agencies were interviewed:

- Sacramento Area Flood Control Agency (SAFCA)
- United States Bureau of Reclamation
- City of Sacramento
- County of Sacramento
- Reclamation District 1000

Background and Facts

History of Flooding in Sacramento County

The area of Sacramento County that lies near the confluence of the Sacramento and American Rivers has a long history of flooding dating back to before permanent settlement of the area began in the 1840s. In the 160-year interval since permanent settlement of Sacramento began, efforts have been made to reduce the flood threat by building up the level of land near the rivers, building bypasses to divert flood water away from the area, building levees along the river channels and building dams to

control the flood water. A system of weirs and bypasses that allow floodwater from the Sacramento River to safely bypass certain areas was constructed upstream from Sacramento. At high flows, some of the water from the Sacramento River can enter the Yolo Bypass at the Sacramento Weir a few miles north of the city, relieving pressure on the Sacramento levees. The levee systems along the American and Sacramento Rivers in the vicinity of Sacramento were assembled over time, beginning with the early efforts of farmers near the rivers nearly 150 years ago. As the area became urbanized and modern construction methods became available, the levees were built higher and stronger to provide greater protection to the area. Dams on the Sacramento River and its major tributaries above Sacramento were completed between 1948 and 1968 to control floodwaters which added to the protection provided by the levee system. Folsom Dam, upstream from Sacramento on the American River, is credited with saving the city from disastrous flooding in December 1955, even though the dam was only partially completed at the time. Together, the bypasses, levees and dams have prevented catastrophic flooding in Sacramento for over 50 years.

In spite of the flood protection work that has been accomplished, the area has been threatened with catastrophic flooding in recent years such as 1986, 1997 and 2006. SAFCA reports that combined levee breaks in Natomas, the Pocket, and near California State University, Sacramento, could cause the following devastating impacts: 102 square miles would be flooded; 63,800 structures would be flooded; up to 500 people could lose their lives; 150,000 people would be threatened by flooding of six feet or more, with 118,000 facing depths of ten feet or more; Sacramento International Airport would be under 15 feet of water; four major hospitals and 65 schools would be flooded; and damage to property would be \$11.2 billion, including \$9.2 billion to homes. In recognition of these possibilities, and the Katrina flood event in New Orleans in 2005, there has been re-evaluation of the flood risk to the Sacramento area. There is now an increased recognition of the fragility of the levee system and the corresponding risk of catastrophic flooding, especially in the North Natomas area where the levee structures are subject to seepage that may cause failure.

The Level of Flood Protection

Flood risk is generally expressed as a percent chance of occurrence based on historical records. For example, a one percent chance of occurrence means that a flood of that magnitude has a 1 in 100 chance of occurring in any one year. It becomes commonly known as a 100-year flood. Property flood insurance, subsidized by the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA), is available when an area is certified by the United States Army Corps of Engineers (Corps) to have protection from at least a 100-year flood. However, when the threshold 100-year protection has not been certified, the risk is greater and the insurance cost is much higher. Insurance is still required for homeowners who have federally guaranteed mortgages or mortgages from most other financial institutions.

The Sacramento area has been trying to achieve 100-year protection since the FEMA flood insurance program became available in the 1970s, but only mounted a serious effort after the area was threatened with disastrous flooding in 1986. Local governments and flood control agencies formed SAFCA in 1989 to work with the Corps and the California State Reclamation Board to address the weaknesses in Sacramento's flood control system that were exposed during the record flood of 1986. The Corps's post-flood evaluation showed the flood control system was inadequate to meet the minimum requirements of the 100-year protection of NFIP.

After considerable levee repair and upgrading, much of the Sacramento area was certified with 100-year protection by the mid-1990s. The North Natomas area was certified for 100-year protection in 1998, which made flood insurance available and unleashed rapid urban development in an area that had been farmland. However, the New Orleans flooding disaster in 2005, and high water on the Sacramento and American Rivers in January 2006, led SAFCA to request a more in-depth evaluation of the levees. As a result, the Corps found that the North Natomas area is now below the minimum 100-year level of protection because of seepage and other problems, and that significant levee improvement would be necessary to return the area to that minimum level. SAFCA is actively working toward its stated goal of providing all of the flood plains in the Sacramento area protected by the state/federal levee system with at least a 100-year level of flood protection by 2008, or as quickly as possible, and providing a 200-year level of protection over time, hopefully by 2021.

Temporary Cessation of Building

When critical flood situations exist, such as in the Natomas area, that have the potential of causing the loss of lives and property, government entities at every level may, and have, imposed moratoriums on commercial and residential building in the high risk areas. Land in North Natomas was zoned agricultural until Arco Arena was built in the mid-1980s. Development was restricted by the city in this area from 1990 until 1998 when 100-year flood protection was certified and rapid development began. Accordingly, local government has experience with a de-facto moratorium on building in the flood plain when the flood risk is great.

In a November 11, 2006, letter to the Mayor of Sacramento, the Director of the State Department of Water Resources stated that it would be prudent to consider additional efforts to protect the public by placing limitations on new construction until the minimum 100-year flood protection is achieved. There are moratorium provisions in state law (Gov. C. §65858) that provide the procedural framework applicable when a city or county adopts, as an urgency measure, an interim ordinance based on findings that continued building would constitute a current and immediate threat to the public health, safety or welfare. Such measures require a four-fifths vote for approval, then public notice and hearings within 45 days of approval and, if adopted, the ordinance can only remain in effect for up to two years unless further extended by a four-fifths vote.

Flood Insurance

In June 2006, SAFCA announced that the North Natomas area had less than 100-year protection based on the Corps re-evaluation. It was expected that the Corps would de-certify the area in March 2007, and by November 2007, FEMA was expected to re-map the area. This means that unless the area is re-mapped into either an AR or A99 Special Flood Hazard Zone, or until 100-year protection is achieved, flood insurance rates would likely quadruple. The Corps has issued a letter stating that they cannot stand behind the certification that the levees provide 100-year protection, but FEMA is not now expected to issue a new map until March 2008. In the meantime, subsidized flood insurance remains available to residents of the North Natomas area. The City of Sacramento, representing also Sacramento County, is expected to take the lead in filing for FEMA re-mapping and will probably request a zoning designation of A99 to allow development to continue, or AR which would allow only in-fill development.

As of February 21, 2007, when Sacramento's south area, which includes the Meadowview and Pocket communities, became eligible, subsidized flood insurance was available over nearly all of the area protected by the Sacramento and American River levee system. That also includes the Natomas area that still qualifies under the 100-year flood protection certified by the Corps in 1998, even though the Corps stated in June 2006 that they cannot stand behind the certification. It is well known that Natomas is vulnerable to deep flooding and notices to that effect have been issued by SAFCA and other agencies, yet FEMA estimates issued in December 2006 showed that only about 25% of property owners carry any flood insurance.

Flood insurance in areas certified with 100-year protection is heavily subsidized through a program administered by FEMA. Even though there are limitations on the coverage available, the homeowner pays a small portion of the amount that a private insurer would charge for the same coverage without a subsidy. The Grand Jury believes that if Natomas residents were better informed of the availability of this insurance, homeowners electing coverage would rise substantially above current levels.

Findings and Recommendations

Finding 1. SAFCA has proposed increasing protection for the entire Sacramento flood risk area. Its goal is 100-year protection by 2008 and 200-year protection by 2021. Even though these levels of protection are less than what has been achieved at similar flood prone areas in the nation, they seem reasonable and achievable for Sacramento.

Recommendation 1. All government agencies, elected officers and residents in flood risk areas should support SAFCA in striving to reach the stated goal of providing 100-year and 200-year flood protection for the Sacramento area by 2008 and 2021, respectively, or sooner.

Finding 2. Both the City of Sacramento and the County of Sacramento are allowing building to continue in areas that do not have 100-year flood protection. This is especially true in North Natomas that was found to have less than 100-year protection in 2006. Potential flood depths of greater than 15 feet in that area place immense risk to both lives and property.

Recommendation 2. The city and county should curtail all building in the North Natomas area until 100-year flood protection is certified by the Corps. A policy stopping all development immediately in North Natomas, as allowed by state law, is imperative. Extending the policy until 200-year protection is achieved is highly recommended.

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 Superior Court by October 1, 2007, from:

- **Sacramento Area Flood Control Agency (1)**
- **Sacramento City Council (1, 2)**
- **Sacramento County Board of Supervisors (1, 2)**

Rancho Seco Nuclear Power Plant: Maintenance/Disposal of Radioactive Waste and Used Nuclear Fuel

Issue

Are all reasonably necessary steps being taken regarding the storage and disposal of radioactive waste and used nuclear fuel produced at the Sacramento Municipal Utility District (SMUD) decommissioned Rancho Seco Nuclear Power Plant (Rancho Seco)?

Reason for Investigation

The Grand Jury initiated this investigation to determine 1) the status of radioactive waste and used nuclear fuel storage/disposal at Rancho Seco, 2) if adequate steps are being taken to protect the public from release of radioactive materials, and 3) if all appropriate steps are being taken to ensure that used nuclear fuel is being removed and stored in a safe and timely manner.

Method of Investigation

The Grand Jury reviewed documents (e.g., SMUD policies and procedures relating to the decommissioning of Rancho Seco) acquired from SMUD, and conducted internet research. It also toured Rancho Seco, received a thorough briefing, and the Grand Jury's questions were responded to by the power plant staff.

Background and Facts

SMUD planned and constructed the Rancho Seco 913 megawatt nuclear power plant in the 1960s and 1970s at a site near Herald, California, in southern Sacramento County. The plant was operated from 1975 to 1989. In June 1989, the residents of Sacramento County voted in an advisory vote to close Rancho Seco, and SMUD complied.

During Rancho Seco's 14-year operating period, materials became contaminated with radioactivity and 493 nuclear fuel rods became used. Radiological decommissioning of the facility requires that radioactivity be reduced to meet Nuclear Regulatory Commission (NRC) criteria for safety.

Radioactive waste is classified as "A", "B", "C" and "GTCC" (Greater Than Class "C"), depending upon the level of radioactivity it emits. The least potent is "A" waste, consisting of clothing, some soils and materials, and is shipped to a landfill site in Utah authorized to store low level nuclear waste. "B" and "C" category wastes are being stored in a building designed to NRC standards until an off-site facility acceptable to SMUD becomes available. They will then be removed and stored at

that facility. The building at Rancho Seco has a life expectancy of 30 years and must be re-evaluated by 2028. Some items were decontaminated and sold to local recyclers or sent to landfill. All of these items were extensively screened for radioactivity before release.

“GTCC” waste is more potent and must be handled with greater diligence than radioactive waste classified as “A”, “B” or “C”. It will be stored on-site in the same type of container as used fuel and under the same security. There is currently no national facility or location to store “GTCC” waste.

Dealing with the 493 used nuclear fuel rods is an additional concern. They are currently being stored on-site in specially constructed containers in a specially constructed aboveground structure. They are under constant surveillance and their security has been upgraded since “9/11” in compliance with NRC regulations. SMUD maintains that the federal Department of Energy (DOE) is responsible for removing, transporting and providing for the long-term storage of used nuclear fuel. However, the proposed disposal site, Yucca Mountain, Nevada, is not ready to accept used nuclear fuel, and may not be for some time, if ever. In the meantime, SMUD is responsible for storing the used nuclear fuel rods.

The storage site is inspected by NRC periodically. To SMUD’s credit, it is trying to store the rods in the most cost effective and safe manner under NRC regulation, while seeking reimbursement for that cost from DOE, and urging the federal government to find a permanent solution to the disposal problem.

SMUD’s decommissioning trust funds radioactive waste removal and disposal (“A”, “B”, “C” and “GTCC” waste types) through 2028. SMUD’s decommissioning trust fund does not fund nuclear fuel storage at the site after 2008. It appears that the used fuel rods are not going to be removed from Rancho Seco to a permanent storage facility by 2008, and probably not for some time after that date. SMUD’s operation and maintenance expense for the used rods is approximately \$4.5 million per year, calling into question how that expense will be covered. The nuclear fuel used at Rancho Seco was acquired with the understanding that DOE would remove the used nuclear fuel rods from the site for permanent storage. For that purpose, SMUD provided to DOE funds collected from the sale of energy generated at Rancho Seco. Now there is controversy between DOE and SMUD regarding which is responsible for funding the continued care of the used nuclear fuel until it is removed from the site. SMUD has obtained a lower court ruling that it is the responsibility of DOE, but DOE is expected to appeal.

The radiological decontamination of Rancho Seco is scheduled to be completed in two phases. Phase I, to be completed in 2008, will remove almost all radioactive contaminated material or store it on-site. Phase II, planned for completion by 2030 will result in the removal of any remaining radioactive contaminated waste and all used nuclear fuel. However, because the Yucca Mountain disposal site for used fuel may never be opened, and there is no other facility for storing used nuclear fuel off-site, an alternative plan for the removal and storage may be required.

SMUD is in the process of reducing the site radiation level at Rancho Seco to 25 mRem¹ per year, or less, for persons working at the site. This is less than the 35 mRem from one chest X-ray, or the

¹ mRem is a measure of radiation exposure and can be related to potential health defects.

average exposure to United States residents from all sources of 360 mRem per year.

It should be noted that the Rancho Seco staff appeared highly motivated, dedicated and competent in dealing with these considerable challenges. Further, lessons learned by the staff in developing decommissioning procedures, a pioneering process, have served as examples nationwide.

Findings and Recommendations

Finding 1. While expenses for dealing with waste types “A”, “B”, “C” and “GTCC” are fully funded through 2028, the storage of used nuclear fuel, costing about \$4.5 million per year, is not funded beyond 2008.

Recommendation 1. SMUD should identify funding sources for appropriately dealing with storage of used nuclear fuel through at least 2028.

Finding 2. It is not certain which entity (SMUD or DOE) is responsible for the cost of storing “GTCC” waste and used nuclear fuel rods until they can be removed to a permanent storage facility. SMUD contends, but DOE disagrees, that it is the responsibility of DOE.

Recommendation 2. In the event that SMUD may ultimately be held responsible for storage of the used nuclear fuel rods, SMUD should develop contingency plans with sufficient funding to meet that obligation.

Finding 3. The Yucca Mountain, Nevada, nuclear waste storage facility may never be opened.

Recommendation 3. SMUD should develop a plan that includes possible funding sources which will provide for the permanent storage of the Rancho Seco used nuclear fuel.

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 Superior Court by October 1, 2007, from:

- **Sacramento Municipal Utility District**

County Heat Emergency Response

Issue

How did the Sacramento County Department of Health and Human Service (DHHS) respond to the July 2006 heat emergency?

Reason for Investigation

The extended heat wave in July 2006 prompted the Governor of the State of California to issue an emergency declaration that required state agencies to protect vulnerable residents. As a result of this declaration, all county welfare departments were directed to assess the safety of all In-Home Supportive Services (IHSS) and Adult Protective Services (APS) recipients.

Method of Investigation

The Grand Jury interviewed the following Sacramento County Officials:

- Division Manager, Senior and Adult Services (SAS)
- Program Managers, In-Home Supportive Services
- Manager, Quality Assurance and In-Home Supportive Services
- Administrative Services Officer III, SAS

The Grand Jury received and reviewed the following documents:

- All County Information Notice No. I-53-06 from the California Department of Social Services regarding the Governor's directive of July 26, 2006, requiring the assessment of safety of IHSS recipients and APS clients
- Press release from the Office of the Governor
- SAS notifications
- Sacramento County Safety Evaluation of IHSS recipients and APS clients as a result of prolonged high temperatures
- Emergency Operations Manual - Sacramento County Emergency Communication Manual; Department of Health and Human Services Emergency Operations Plan, June 7, 2004
- IHSS/County Medically Indigent Services Program (CMISP) User Manual
- Department of Health and Human Services – Senior and Adult Services – Volunteer/Staff Heat Emergency Contact Procedures, July 26, 2006
- Examples of calls to SAS during the heat crisis in July 2006
- Resource materials provided to the SAS staff and the community

- Memorandum from the Emergency Operations Office (EOO), Sheriff's Department, July 28, 2006
- Department of Health and Human Services - Senior and Adult Services Division Emergency Operation Review During the July 2006 Heat Wave
- Department of Health and Human Services - Senior and Adult Services letter dated July 31, 2006, "Sacramento County Safety Evaluation of In-Home Supportive Services and Adult Protective Services Clients as a Result of Prolonged High Temperatures Statewide"
- Welfare and Institutions Code sections 15750-15766
- Welfare and Institutions Code sections 12300-12317.2

Background and Facts

The county programs for IHSS and APS are under the direction of SAS. Both programs are state mandated and are involved with the protection of some of the most vulnerable people in the county.

IHSS serves aged, blind or disabled persons who are unable to remain safely in their homes without help. IHSS provides a range of services (Welf. & Inst. C. §12300) to qualified recipients. These services include assistance with daily tasks such as bathing, dressing, cooking, cleaning, grooming and feeding. A social worker evaluates each potential recipient and, in coordination with medical staff, determines the level of care required. The recipient must receive Supplemental Security Income or meet resource guidelines. That determination is made during the screening.

Once IHSS determines that the applicant is qualified, it can help the individual locate a caregiver for the necessary assistance. The recipient may have a family member or friend who can provide the services and that person can be designated as caregiver. If the recipient does not have someone to help out, IHSS will help find a suitable contractor. Caregivers are paid on an hourly basis, as certified by the recipient, for work performed. Funding for IHSS is provided by a combination of federal, state, and county funds.

For notification purposes, IHSS recipients, now numbering more than 18,000, are categorized by code to indicate their vulnerability and special impairments and supplies needed. The IHSS/CMISP User Manual, Section XI, IHSS Disaster Preparedness Assessment Plan, details the procedure for categorizing recipients. Under these guidelines a recipient may choose not to be notified in case of an emergency, and that is reflected in the assigned code. Those persons rated "critical" or "urgent" are contacted first in case of an emergency but those rated with a "decline notification" code could be overlooked even if their condition were critical or urgent. Each recipient is evaluated annually and re-categorized if necessary.

APS is a program intended to maintain the health and safety of elderly and adult victims of abuse, neglect, exploitation, or hazardous or unsafe conditions. An APS social worker investigates, usually within 24 hours, each allegation of abuse and takes action as necessary with paramedics, law enforcement or other agencies to mitigate and correct the situation. Most cases are closed within 30 to 60 days so the open cases are not extensive at any one time. Due to the sensitivity and

confidentiality of these cases, special care must be exercised with them. The Governor's declaration specified that each recipient contact be made only by an APS staff member.

The county is not dependent upon a declaration of emergency by the Governor to respond to an emergency, including a heat emergency.¹ IHSS and APS social workers, prior to the Governor's declaration, contacted known high risk recipients early in the heat wave and responded to incoming heat related calls by providing information and assistance when necessary. On July 25, 2006, the day before the Governor's declaration, the City of Sacramento opened "cooling centers" and swimming pools and issued a news release to inform the public of that fact. On that same day the IHSS Management Team told program supervisors to "have all social workers begin calling the most at-risk recipients on their caseloads to ensure that they were safe."

The Governor declared a heat wave emergency on July 26, 2006. Instructions from the Department of Social Services to the counties for compliance with the declaration were contained in a letter that directs in part: "The purpose of this All County Information Notice is to bring your attention to the Governor's Press Release issued July 26, 2006, requesting that all county welfare departments assess the safety of *all* In-Home Supportive Services (IHSS) recipients and Adult Protective Services (APS) recipients as a result of the prolonged heat wave California is experiencing." (Emphasis added.)²

SAS then developed instructions and checklists specific to the heat problems and hired 20 temporary workers. Staff and the temporary workers used the checklists as a guide when they contacted recipients and clients to inquire about their safety and to provide advice about the services available. Because of the emergency declaration, police and sheriff personnel were asked to make on-site visits to residential hotels, mobile homes and other locations to evaluate conditions and offer help to vulnerable people. The high profile emphasis created by the Governor's declaration resulted in many agencies making contacts and they often overlapped. Some IHSS recipients and APS recipients reported that they were contacted by two or three agencies, but most were happy that they had been remembered.

According to internal call records from July 26 through July 28, 2006, IHSS staff and the temporary workers made 9,534 phone calls resulting in only 5,510 contacts out of the more than 18,000 IHSS total recipients. Those recipients indicating problems received an in-home visit or were referred to 911 as necessary. IHSS personnel also distributed fans and other supplies when needed. There were

¹ Under the California Emergency Services Act (Gov. C. §§8550-8668), a local emergency may be proclaimed by the governing body of a city or county, or by an official designated by ordinance adopted by the governing body. (Gov. C. §8630(a).) In Sacramento County, the designated official is the County Executive. (Sac. County Code of Ord. §2.46.010.) The term "emergency" for state and local purposes alike, includes . . . "conditions of disaster or of extreme peril to the safety of persons and property . . . caused by such conditions as air pollution, fire, flood, storm . . . or other conditions . . ." (Gov. C. §8558 (b) and (c), respectively.) These provisions authorize the declaration of heat emergency by the Governor or, in the case of a local emergency, by the County Executive. The Natural Disaster Assistance Act (Gov. C. §§8680-8692), provides for state financial assistance to local agencies for repair, restoration, cost of personnel, equipment, supplies, materials, and other costs related to a local emergency. (Gov. C. §§8680.4, 8685, 8685.2.)

² Department of Social Services letter dated July 26, 2006, All County Information Notice No. I-53-06, Subject: Safety Evaluation of In-Home Supportive Services Recipients and Protective Services Clients as a Result of Prolonged High Temperatures Statewide.

191 in-home visits and seven 911 calls made as a result of this effort, and 32 fans were distributed. Calls made prior to July 26, 2006, were not recorded and are not part of the above figures.

It was reported by IHSS that it does not have an independent computer system for keeping track of recipients and must interface with a state data base called the Case Management and Payroll System (CMPS). This system is updated monthly and cannot be manipulated to provide real time information or categorized lists. When IHSS tried to use the printout from the system to develop call lists, the information was found to be outdated, erroneous, and contained the names of all recipients organized by area code. Staff had to use social worker notes to develop call lists and this caused some delay and confusion in getting the notification program operational. APS had similar, or more severe, problems with the computer output. SAS is working on the development and installation of a more flexible system called the Adult Data Automated Module (ADAM) that will enhance the capabilities of both agencies.

APS was able to contact 434 recipients and 15 people reported heat related problems. Two recipients died during the extended heat wave but it was unknown if the deaths were directly related to heat. One person, who was living with her son, and who was suffering from dementia, had turned on the heat instead of the air conditioner. The other person died while a case worker was on her way for a scheduled visit.

After the emergency, SAS directed a comprehensive review of the response to this event. A number of areas were identified that require corrective action including internal and external communication, data availability, cooperation with other agencies, lack of resources such as fans being immediately available for distribution and the absence of specific guidance in the County Disaster Plan detailing the parameters of heat and humidity necessary to require the implementation of emergency action. Information about developing a program to determine when heat becomes an emergency is available to SAS and it is used in other cities in the country. Many places use weather forecasts to predict and prepare for extreme heat. Had such guidance been identified, prominently outlined and understood by everyone involved in initiating emergency action, some discomfort could have been avoided. SAS staff is working on these problems either in-house or with the Sacramento County EOO.

Findings and Recommendations

Finding 1. The county could face emergencies from flood, terrorist attack, pandemic, earthquake or any number of unexpected events. After the Governor's declaration it took three days for IHSS to contact approximately 30 percent of its recipients. This result is unacceptable. IHSS has a staff of 150 and it reported that all people not on vacation were available to make calls during the emergency. Had only half of the available staff, or 75 people, along with the 20 temporary hires made just a modest ten calls per hour per person, it could potentially produce a combined total of 950 calls per hour.

Recommendation 1. SAS should work to enhance and streamline notification efforts in a way that fully utilizes all available resources to more quickly complete emergency notifications. Coordination with other county support agencies should be improved to eliminate duplication of effort and ensure

a more complete coverage of vulnerable people in the county.

Finding 2. DHHS and SAS conducted an Emergency Operation Review after the July 2006 heat wave and identified a number of areas, both in-house and involving coordination with outside agencies, that need improvement. Among other items they specifically addressed the need to operationally define what constitutes an extreme heat situation requiring emergency response.

Recommendation 2. DHHS, SAS and EOO should continue to work on the problems identified during the Emergency Operation Review to better prepare the county for disasters, including heat. A specific policy should be developed to establish a level of heat, humidity and length of exposure time considered to be a heat emergency in Sacramento.

Finding 3. SAS computers depend upon an interface with state computers and do not provide the flexibility and responsiveness required to handle an emergency.

Recommendation 3. SAS should expedite development of the planned ADAM computer system to provide real time recipient information for emergency notification. This information will be required to comply with the emergency plan currently being developed by EOO.

Finding 4. The current SAS policy for allowing individuals to elect not to be notified of an impending emergency does not demonstrate a realistic understanding of an emergency situation.

Recommendation 4. SAS should review the policy for assigning codes to determine if allowing IHSS recipients to decline emergency notification truly serves the best interests of the recipients and the community as a whole. Since the recipient is benefiting from services paid for by public funds, SAS should contact them in any case of an emergency.

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 Superior Court by October 1, 2007, from:

- **Sacramento County Board of Supervisors**

The Sacramento County Primary Care Clinic

Issue

The Sacramento County Grand Jury reviewed the quality and availability of medical services at the Sacramento County Primary Care Clinic.

Reason for Investigation

Along with growth across all demographics in Sacramento County, the number of low income and indigent individuals has also increased. These individuals require medical services both in terms of intervention and long term health care. The Grand Jury reviewed the quality and availability of these medical services.

Method of Investigation

The Grand Jury interviewed:

- Division Chief, Primary Health Services Division
- Medical Director, Clinic Services Branch
- Director, Pharmacy Services
- Chief, Correctional Health Services, Sheriff's Department
- Project Manager, County Medication Management System (CMMS)

The Grand Jury reviewed:

- Primary Care Clinic brochures and information packets
- Eligibility packets
- Memorandum from the County Pharmacist regarding pharmacy staffing
- Request for Proposal (RFP) for the CMMS, January 10, 2005
- CMMS contract, October 10, 2005
- Pharmacy Computer Service, Inc. of Oregon (PCSI) response to the RFP
- PCSI RX 3000 open item log
- Department of Health and Human Services Information Technology organization chart, April 2, 2007
- Letter from Chief, Primary Health Services Division to PCSI regarding PCSI's failure to demonstrate the RX 3000 outpatient/inpatient application functionality, December 7, 2006
- Letter from PCSI to Chief, Primary Health Services Division, December 11, 2006

Background and Information

The purpose of the County Medically Indigent Services Program (CMISP) is to provide medically necessary care to all eligible residents of Sacramento County. All recipients of General Assistance (GA) are automatically eligible for CMISP clinic services. Other indigent persons who need to apply for CMISP may do so at the time they request medical service at one of the following clinics:

- Primary Care Clinic
4600 Broadway
Sacramento, CA 95852
- South City Health Center
7171 Bowling Green Drive
Sacramento, CA 95823
- Del Paso Health Center
3950 Research Drive
Sacramento, CA 95838
- Capital Health Center
1500 C Street
Sacramento, CA 95814
- Northeast Health Center
7805 Auburn Boulevard
Citrus Heights, CA 95610
- Sacramento Dental Clinic
1500 C Street
Sacramento, CA 95814

On November 1, 2003, the County of Sacramento opened the new Doctor Paul F. Hom Primary Care Clinic (PCC). PCC is the center of the health support facilities in Sacramento County. PCC is open from 8:00 a.m. until 9:00 p.m., Monday through Friday. Along with indigent patients, the clinic also serves the working poor who are not eligible for Medi-Cal benefits.

On an average day, besides a full schedule of office visits, the clinic will serve as many as 150 additional walk-in patients for treatment. Of these walk-in patients, as many as 50 are new patients and an enormous amount of work is required to document their medical histories. The clinic also receives follow-up patients from area emergency rooms. In an average year, PCC will provide medical support to over 50,000 patients.

While the clinic has a full spectrum of services such as laboratory (outsourced), radiology and pharmacy, the staff also facilitates referrals for services beyond the scope of the PCC. This would include services such as chemotherapy, radiation therapy, advanced diagnostics and inpatient care.

Additional points of interest include:

- The clinic does not have patient transportation available but provides vouchers for taxis and public transit.
- The staff at the clinic can translate over a dozen languages and a phone translation service is available for others.
- The Chest Clinic is the primary county caregiver for patients with tuberculosis regardless of the patient's income or insurance.
- The clinic has many active volunteers, both lay individuals and health care professionals. County residents are encouraged to volunteer at 874.9670.

- The 2007 budget of the clinic through the Department of Health and Human Services is \$93 million.

Problems in Pharmacy Staffing

Staffing

During tours and interviews with the clinic staff, the Grand Jury learned that there is currently a shortage of pharmacists working for Sacramento County. These pharmacists are responsible for dispensing prescription requests from all of the county clinics and the county correctional facilities. Currently, 25% of the authorized positions are vacant. Within the next two years, retirement and work hour cut-back requests will further decrease the existing staff. Pharmacy staffing is problematic for the following reasons:

- There is a severe shortage of licensed pharmacists in the Sacramento area. Even with an attractive benefit package and work schedule, the county has not been able to attract candidates.
- Sacramento County pharmacist salaries are not competitive with area agencies:
 - Area hospitals currently pay 25-35% more than the county.
 - Retail sources pay 20-40% more than the county.
 - Temporary hires are paid 30-50% more than county pharmacists.
 - Neighboring San Joaquin County pays 10% more to its pharmacists.

If the county has to resort to outsourcing a substantial amount of the pharmacy workload, the consequences would be extremely costly. During the labor action at the county clinics in September 2006, the health clinics were forced to send many prescriptions to outside retail pharmacies. The cost of these medications rose by an estimated 287%.

New Pharmacy Software

Adding to the difficulties in the pharmacy department is the failure of the CMMS. In January 2005, the Department of General Services issued an RFP on behalf of the Department of Health and Human Services (DHHS) for a CMMS to manage the pharmacy system in institutional and outpatient environments. The county received three bids. The Grand Jury reviewed the RFP issued on January 10, 2005, and the awarded vendor response. It is clear that the documents were not reviewed for clarity or information technology procurement best practices:

- On page four of the RFP, “. . . the County Department of Health and Human Services for which this RFP is prepared and which will be the end user of the voting machine sought” This is not a bid for a voting machine.
- On page 12 under “2.3 Health Insurance Portability and Accountability Act (HIPAA) COMPLIANCE,” the county requests that the system support HIPAA standards. However, the RFP document does not require the vendor or support staff to be HIPAA certified.

- On page 22, under “6.2.2.3 Availability and Disaster Recovery,” the reference should be “planned downtime,” not “planned downtown.”
- On page 15, “4.2.1 Criteria” and page 17, “5.1 Contract Execution,” the county states that the awarded vendor must post a performance bond. This condition is mandatory but not met.
- It is also noted that PCSI did not provide several required financial documents: a recent corporate annual report including an auditor’s unqualified opinion or a copy of an auditor’s review signed by a CPA demonstrating either net worth of \$2.5 million or annual gross revenue of \$7.5 million and an annual net profit of \$1 million.

Based on a review of the bid, the county awarded the contract for CMMS to PCSI. The value of the contract was approximately \$690,275. That winning bid should have been deemed non-responsive because the vendor did not include the cost of the required performance bond in the cost portion of its bid. The vendor stated an effort would be made to secure the bond after the contract was awarded and that the county would have to pay for that bond. The awarded vendor did not comply with the mandatory RFP requirements and should not have been awarded the contract.

After more than a year, the outpatient software is described as 85% functional. This means that 15% of the contracted systems are not working. As of March 2007, the county paid the PCSI \$174,000. The inpatient software has proven to be nonfunctional. In February 2007, the Sheriff’s Department withdrew its participation from the inpatient system development and is pursuing other solutions. The juvenile and mental health facilities have also withdrawn participation in the inpatient modem. The primary problem, as described to the Grand Jury, is that the vendor switched from a character base data system to a windows base data system, with Sacramento County being the first customer on this system. The vendor is therefore using Sacramento County Medical Services to do its beta testing.

Findings and Recommendations

Finding 1. There is currently a shortage of pharmacists employed by Sacramento County. Without action on the county’s part, it is likely that the recruitment and retention problems will increase. This will prove extremely costly and is likely to compromise medical services.

Recommendation 1. The DHHS needs to restructure the salary scale for county pharmacists to make it competitive in today’s market.

Finding 2. The DHHS and the county purchasing department did not properly review the RFP for the CMMS. They further did not monitor compliance of the selected vendor as to the RFP requirements.

Recommendation 2. DHHS must be certain that awarded contracts fulfill all requirements mandated by the RFP on any purchases made by the department.

Finding 3. The vendor (PCSI) did not fulfill its contractual obligations. The outpatient system is not fully operational and the inpatient system has never worked.

Recommendation 3. The DHHS needs to assure that the county has a functional CMMS as soon as possible. Within the provisions of the contract with PCSI, the county should seek restitution for any services paid for and not provided.

Response Requirements

Penal Code sections 933 and 933.5 require that specific responses to both the findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2007, from:

- **Sacramento County Board of Supervisors**



Interim Report

INTERIM REPORT¹

The Kings and City and County of Sacramento: Betrayal in the Kingdom?

Issue

Have the City and County of Sacramento deceived their citizens regarding their dealings with the Kings? Specifically,

- Were the city and county withholding information about current and past government involvement with the Kings?
- Were the city and county withholding information about the specifics of the new arena proposal?
- What are the consequences of the local government taking title to portions of the property in the polluted railyards?
- What is the impact of the proposed arena on the railyard development and on development in other parts of the city?

Reason for Investigation

On November 7, 2006, the voters of Sacramento County defeated Measures Q and R. Before the election the Grand Jury received a citizen's complaint raising questions about the measures. This complaint, along with public concern expressed in the media, led to this investigation.

Method of Investigation

After opening the investigation, the Grand Jury did archival research and conducted more than 25 interviews including numerous public officers at various levels of government.

The Grand Jury reviewed many agreements, memoranda, drafts, resolutions, legal opinions, correspondence, ballot measures, media analyses, and other documents regarding the following:

- New Sports and Entertainment Facility
- Measure A/B Tax Proposals
- Proposed Financial Assistance to the Sacramento kings

¹ This report was issued on March 21, 2007.

- Bonds and Related Documents Regarding Loans to Sacramento Kings
- Public-Private Partnership
- City of Sacramento Sports policy
- Reciprocal Easement and Operation of Arena
- Development of Property in North Natomas Community Plan Area
- Rezoning of Property around Temporary Arena
- Execution of documents necessary for Transfer of Property to City of Sacramento
- Recommendation Regarding phase II of Downtown Sports and Entertainment District Feasibility Analysis

The Grand Jury reviewed a number of published articles, including:

- Michael Peter Smith, Gregory A. Guagnano, Cath Posehn, “The Political Economy of Growth in Sacramento: Whose City?” Chapter 14 in Gregory D. Squires, editor, *Unequal Partnerships: The Political Economy of Urban Redevelopment in Postwar America*. (Rutgers University Press, 1989)
- Paul C. Weiler, *Leveling the Playing Field: How the Law can make Sports Better for Fans*, (New York: Harvard University Press, 2000)
- No. 339, April 5, 1999, Policy Analysis “Sport Pork-The Costly Relationship between Major League Sports and Government,” Raymond J. Keating

Background and Facts

Before the Kings and the Current Arco Arena

There have been numerous efforts in Sacramento to build sports facilities with public money. They have all failed. In 1975 there was a ballot measure presented that would have allowed the building of a stadium on county owned land; it was defeated. Without seeking voter approval, in 1978 the Board of Supervisors was preparing to negotiate a long term lease with developers for a stadium on Bradshaw Road. The 1978-1979 Sacramento County Grand Jury called for a temporary halt to the county proceedings and requested the matter be decided by the voters.² Later that year Proposition 13 passed and the county abandoned the Bradshaw Road project.

Developers who owned land near the current arena location in North Natomas qualified Measure A for the 1979 ballot. The measure would have rezoned 400 plus acres owned by developers and allowed the development of a sports complex.³ Measure A lost. The city and county thereafter formed a joint commission to study where a stadium could be located in Sacramento County. The commission voted for two sites, one of which was the present Arco Arena site.

The hectic times, leading up to and following the temporary Kings arena, have been full of sport

² 1978 Grand Jury Report, letter dated December 21, 1978, to the chairman of the board of supervisors.

³ Developers pushing Measure A had previously purchased the land where the stadium would be and the adjacent land. County Recorder Documents.

stadiums and arena plans. In 1983 a county officer publicly gave this perspective, “I see the private sector finally successful in their plan to purchase an inflatable stadium which can then be set up at different locations which from time to time have been vigorously proclaimed as ‘The Perfect Site in Sacramento County!’ The hot air needed for this inflatable stadium is certainly abundant in Sacramento!”

The same developers who sponsored the 1979 Measure A purchased the Kansas City Kings in 1983. In 1984 they were quoted in the media as committed to the people of Kansas City, saying, “Our primary goal right now is to make the team succeed in Kansas City.” While these new Kings owners were negotiating with Kansas City, they were also building a warehouse in North Natomas to be used as a temporary arena. However, this structure wasn’t built to National Basketball Association (NBA) standards and when the Kings moved to Sacramento in 1985 a time limit for its use was imposed by the NBA. The Sacramento County Board of Supervisors on May 15, 1985, approved a use permit for a temporary arena on North Market Boulevard and for rezoning of the adjacent acres for office buildings.

Opposing the rezoning, the Environmental Council of Sacramento noted the ease with which speculators get land rezoned. “A big league city has to have a strong government. Giving everyone what they ask for, regardless of the total result, is not good government.” Other opponents complained that some supervisors seem unduly influenced by campaign contributions from developers. Opinions were expressed to the Grand Jury that Sacramento politics changed when the Kings arrived. Developer and related interest monies have changed the political landscape and have raised the cost of running for office.

Since the NBA had imposed a deadline for the use of the temporary arena, there was an immediate effort to build a more permanent facility that could be used as an arena. Several members of the city council and the board of supervisors, as well as citizens, expressed concerns about the pressure from the Kings owners to rezone and change the planning for North Natomas. The proposed arena was considered a wedge to allow for development⁴ and growth.⁵ An officer with the Kings was concerned that the city would not approve a permanent arena within the time frame set by the NBA, and stated to the media, “What city councilman would risk potential political suicide by voting against the permanent arena once the team takes up residence here?”

Because of the possible flood danger in Natomas, the owners had trouble obtaining financing to construct the arena. To help secure the original loan commitment to build the current arena, the Kings received an \$8 million loan from the Sacramento City Employees’ Pension Fund without the knowledge of the Sacramento City Council.⁶ The resulting arena was poorly constructed, hurriedly

⁴ A member of the then Sacramento Coalition Opposing Leap Frog Development opposing the location of the basketball arena in the North Natomas area stated that, “Developers are using the emotions of Sacramento sports fans as a bargaining chip in winning rezoning. I hope the people of this city don’t get suckered into losing some great aspects of Sacramento for the sake of professional sports”

⁵ Interviewees stated that growth was one of the biggest problems facing this community at that time, and that the arrival of the Kings put great pressure on Sacramento to allow development in North Natomas.

⁶ The Kings continue to get favors from local government. Arco Arena is in the City of Sacramento. The Kings entered into a contract with the Sacramento County Sheriff’s Department to provide off-duty officers for security at Arco not withstanding a) objections of the Sacramento Police Department and b) Sheriff’s off-duty job guidelines which state,

built and designed primarily as a basketball facility. The Kings and backers of a new arena argue that the arena is old, outdated and in need of repair. The actual situation may be that the arena does not generate enough revenue to offset the high salaries of the Kings players and other operating costs.

Hail to the Kings! The Costly Illusion that City Greatness Requires the Presence of Professional Sports

Public and private groups in Sacramento have been trying for years to bring professional sports to this community. A few examples follow: 1) to induce the Raiders to move to Sacramento the city offered a \$40 million bond in 1989; 2) in 1995, the city took title to land next to Arco Arena upon which preliminary excavation had already begun for stadium construction. In exchange, the city granted the donor certain tax credits and development concessions in other locations; 3) on June 11, 1996, the city established a sports policy that sets forth types of public investment or participation for the retention and attraction of sports teams; 4) in 1996, there was an effort to build a major league baseball stadium in the railyards.

Sports proponents continue to promote the ideology that Sacramento can transform to a “world class city,” by building an arena and keeping the Kings. The argument has been and still is that the Kings bring and will continue to bring growth of industry and employment and will help trigger revitalization of downtown; therefore, the city needs to provide money to build a new arena and perhaps forgive the previous loan to the Kings to stop them from leaving. A former high ranking city public official put the image problem in perspective, “The problem with slogans like a ‘world class city’ is that they wind up meaning so many different things to so many different people, and folks wind up arguing past one another like ships passing in the night. The premise is wacky, the logic is irrelevant, and only the passion is meaningful.”⁷

In 1997 the city loaned the Kings \$78.5 million. A brief history of the 1997 loans is necessary to understand how desperate the City of Sacramento was to keep the Kings. In 1996 the second group owning the Kings was considering selling or moving the team. The owners approached the city with a \$235 million public/private partnership proposal to develop a sports complex and entertainment center. The proposal was termed “Partnership for Playing.” The city’s gross commitment would have been \$150 million. This included a \$90 million contribution toward Arco Arena and a \$10 million commitment for infrastructure at the arena and stadium sites as described under the North Natomas Financing Plan. On January 21, 1997, the Kings group withdrew their proposal.

On January 28, 1997, the Kings and the city reached agreement on a new proposal which was described as follows: “The City provides the Kings with financial assistance to enable the franchise to continue operations for a minimum of ten years. The financial assistance includes a \$70 million loan, and fee credits and deferrals for future infrastructure. The source of payment for the loan will be arena revenues and ticket surcharge revenues.” Some city officers raised questions about the new proposal. One inquired, “How much do the revenues fall short of the loan payment of the loan in the

“Job requests are automatically refused that are not in the unincorporated areas of Sacramento County” The sheriff’s department offered the services at a better rate than the police department.

⁷ *Unequal Partnerships: The Political Economy of Urban Redevelopment in Postwar America*, G. Squires, editor, 262.

early years?” The city staff responded, “There is a projected shortfall of \$8.5 million during the first seven years.”

Another inquired about the contribution or subsidy of the infrastructure under the North Natomas Financing Plan. The city staff responded that the “plan provides a 30-year schedule for infrastructure improvements to serve the North Natomas community.” City staff noted, “At this time, it is projected that the pro-rata share of the plan for the Arena is \$5 million. This arena has already paid \$2 million toward this fee leaving an outstanding balance of \$3 million.” City staff proposed an approach “to provide a credit of \$1.75 million to \$2 million toward the infrastructure plan. Defer the balance of \$1 million to \$1.25 million for a period of not more than 15 years.” City staff stated, “The fee credit represents a potential long-term opportunity costs to the land owners in Natomas. In general terms, the city typically uses the term subsidy when a cash contribution is provided to an organization. The fee credit can be characterized as an adjustment to the assessment of the arena property. As an aside, *the Sacramento City Sports Policy allows direct public subsidy of infrastructure without a vote of the people.*”⁸ (Emphasis added.)

Without a vote of the people, Lease Revenue Bonds in the amount of \$70 million were issued in 1997. Deferred Capital Notes were issued for a total of \$8.5 million to enable the Kings to make the first seven year payments on the loan. On April 15, 2005, the Kings paid \$12 million to pay off the Deferred Capital Notes. By the terms of the loan, if the Kings pay off the remaining \$70 million loan by June 2007 they are free to leave Sacramento.

The city kept, and continues to keep, most of the loan documents from the general public. The city website lists the bond to finance the \$70 million loan, but the public can only get access to a little over 200 pages. Attempts to obtain the loan documents on the city website were futile. Members of the Grand Jury were expressly informed that the documents were approximately 800 pages and were not available to members of the public. Only after the Grand Jury made a written request to the city were the documents provided. It took the formal efforts of the Grand Jury process to obtain the 800 plus pages of loan documents and the additional pages of notes and other supporting documents that went to the Sacramento City Council.

Deal or No Deal: Go to the November Ballot Anyway

Since 2001 there have been a number of studies and proposals to build a new arena for the Kings, the latest being the expenditure of over \$700,000 of public funds leading to the placement of Measures Q & R on the November 2006 ballot. This would have provided for a multi-purpose arena and entertainment center.

The city and county spent over \$300,000 for sports consultants and attorneys to try to craft a new arena deal for the Kings in 2006. No work product was available to the Grand Jury, upon its request, resulting from this expenditure.

In an effort to obtain public financing, Sacramento City and County of Sacramento officials agreed to put the matter on the November 7, 2006, ballot as Measures Q & R. The ballot measures as

⁸ Exhibit C to Addendum to the City Manager Report, answer to: council questions.

written were a blatant attempt to avoid the provisions of Proposition 218 in that Measure R was listed as a general tax (requiring a majority vote) and Measure Q was for distribution of the monies from the tax. Combined, they would have represented a special tax requiring a two-thirds vote. It cost the tax payers over \$456,000 to put Measures Q & R on the November ballot.

There was a flurry of negotiations in New York and Las Vegas involving the Kings and various Sacramento officials in the run up to the November 7, 2006, election. Numerous proposals were floated showing support for an arena and entertainment facility in the railyard or possibly at the Arco site. The public was led to believe that there had been a deal made and that only some minor adjustments were required to finalize it. Had a deal been made as outlined, the city and county were ready to give away the entire revenue stream from the facility being proposed and pay for the facility. In fact there was no deal and never had been. The arena proponents postured in public over who walked away from the bargaining table or who went back on their word. There was never any deal to go back on. All the election hype and analyses were bogus!

The actions of the city and county leaders were not aboveboard with the citizens of Sacramento.⁹ Local private and official proponents exhorted the public to vote in favor of Measures Q & R by prophesying their passage would help Sacramento's image, save the Kings from moving, jump start the railyard development, and potentially be of increased economic benefit to Sacramento. It took judicial action to release to the public the scant documents regarding negotiations which took place after the measures were placed on the ballot.

The lure of an economic benefit to the public by providing a subsidy to professional sports, i.e., the Kings, is just pure wishful thinking. "Players garner about 55 percent of the gains from subsidies and the owners get 45 percent. It doesn't take a math degree to see what that leaves for everyone else."¹⁰ "There is economic value to professional sports. However, it should be left to the marketplace, not politicians, to determine that value. Without government subsidies pro sports would still exist and thrive, as they did in the past. Owners and players, though, would have to adjust their financial expectations downward a bit."¹¹

Downtown Railyard Development – What Have We Gotten Into?

The request to look into the arena development in the railyards raised questions about the railyard development. This report concludes with the Grand Jury's concerns about the downtown railyard development which were one of the reasons an investigation was opened.

The downtown railyard property consists of approximately 240 acres. This land is slated for development and includes the city's plans for developing an intermodal transportation facility. The

⁹ The County spent over \$30 thousand dollars for a consultant to provide assistance in communicating key features of the ballot measure to local elected officials and staff to obtain their support. Inter-Governmental Consulting Services Contract.

¹⁰ No. 339, April 5, 1999, Policy Analysis, *Sport Pork - The Costly Relationship between Major League Sports and Government*, Raymond J. Keating. See Also: *Professional Sports haven't delivered promised benefits in seven California Cities*, U. C. Berkeley report by C. Cockrell, Public Affairs.

¹¹ Keating, op. cit.

property is bordered on the south by “I” Street; to the west by I-5 and the Sacramento River; to the north by North “B” Street and on the southeast by the Alkali Flat residential area. The land is in close proximity to Richards Boulevard, Old Sacramento and downtown. The railyard, when owned by Southern Pacific, was the location of major railroad operations and housed maintenance facilities from 1865 until the 1990's. In 1995 Union Pacific Railroad bought the railyard, and became the responsible party for investigating the pollution and resulting cleanup. Over the years, the activities at the site have resulted in the release of inorganic and organic contamination across the majority of the acreage. Some of the area has been cleaned and developed, notably the location of the Sacramento Federal Courthouse. In December 2006, following the sale by Union Pacific Railroad, Thomas Enterprises, Inc. and the City of Sacramento became the responsible parties under the law for the cleanup.

The results of various soil remedial investigations have defined extensive soil, soil vapor, and groundwater contamination, which include metals, volatile organic compounds, semi volatile organic compounds, poly nuclear aromatics, and total petroleum hydrocarbons. A contaminated plume of groundwater extends both onsite and offsite. According to the California Department of Toxic Substance Control the contaminated groundwater plume extends offsite to the south, beneath downtown Sacramento to approximately “P” Street. Areas on the site have land use restrictions due to the contamination.

The Train has left and the City now has the Station!

Has the city initiated the much wished for revitalization of downtown or has it stepped into a polluted black hole? The following questions raise great concerns about the railyard development.

- Why did the city pay \$55 million for a building it acknowledges is not worth \$55 million?
- What protection has the city obtained from the developer to cover any costs the city may incur for cleaning up portions of the polluted railyard?
- What memoranda of understanding and other agreements has the city entered into with the developer to cover the costs of infrastructure and other development costs?
- How much will the city pay for the development and maintenance of the planned intermodal transportation facility?
- How does the city plan to upgrade the outdated and overloaded sewer system serving the present railyard?
- What truly objective and independent studies have been conducted that analyze the proposed development of offices, buildings, retail and housing in the railyards and the impact it will have on businesses in the downtown area, Richards Boulevard, and North Natomas?

Before the November 2006 election, which included measures Q and R, there were ample critical analyses of the proposed new arena’s impact on railyard development and there is no need to repeat them in this report.

This Grand Jury will recommend to the next year’s Grand Jury to follow up on the above questions. The City of Sacramento should forthrightly and in a timely manner answer the above questions. This

would shed light on the city's plan for the railyard and the present and proposed commitments made to the developer.

Findings and Recommendations

Finding 1. Government officials often have to make unpopular and tough decisions; however, they should be made publicly and in good faith. Sacramento County breached the good faith of honest and open communication by placing Measures Q and R on the ballot asserting a deal which did not exist.

Recommendation 1. Sacramento County should not put matters on the ballot without first explaining the details sufficiently in writing and making them available to the public and posting them on the Sacramento County website. This allows the public to make an informed decision.

Finding 2. The City of Sacramento has not been forthright with the citizens of Sacramento. The details of the 1997 loan to the Kings have never been accessible to the public and remain the focus of many rumors.

Recommendation 2. The City of Sacramento should make public all the 1997 loan agreement documents with the Kings.

Finding 3. The judicially determined unlawful withholding of the documents from the public before the election does not build confidence in government.

Recommendation 3. Except when not restricted by law, the City and County of Sacramento should make all information relating to the determination of important public policy available to the citizens of Sacramento.

Finding 4. The City and County of Sacramento keep pandering to the Kings. The Kings are going to make whatever business decision they are going to make. If they want to move, they have that option under the terms of the current 1997 loan. The Kings and the Monarchs play only a limited number of games each year. If local government decides to build a new entertainment center, there is no justification for allowing one private group to deprive the City and County of Sacramento of the revenue generated and control of the development.

Recommendation 4. If the City and County of Sacramento want a first class entertainment facility, then build it. Build it with public funds, e.g., redevelopment funds, bonds, etc., and let the City and County of Sacramento derive the revenue stream. Make the facility a truly first class facility that can handle big name entertainment and other events. Let the facility be a draw to Sacramento and surrounding communities on a year round basis. If the private sector wants to participate, then make a deal, such as swapping the current undersize convention center in return for private participation. Stop worrying about the Kings.

Finding 5. The City of Sacramento has entered into an unknown number of agreements with the developer of the railyard and others related to the development of the railyards.

Finding 5. The City of Sacramento has entered into an unknown number of agreements with the developer of the railyard and others related to the development of the railyards.

Recommendation 5. The City of Sacramento should make all agreements the city has made with the developer and others related to the development of the railyard available to the public.

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 Superior Court by June 19, 2007, from:

- **Sacramento City Council, Findings 2, 3, 4 and 5; Recommendations 2, 3, 4 and 5.**
- **Sacramento County Board of Supervisors, Findings 1, 3 and 4; Recommendations 1, 3, and 4.**

Appendix

1. Table of Contents of the City of Sacramento Financing Authority 1997 Lease Revenue Bonds
2. Table of Contents of the February 5, 1997, Arena Refinancing Agreement City of Sacramento and Kings Arco Arena Limited Partnership
3. 1996 City of Sacramento Sports Policy

CITY OF SACRAMENTO
TREASURER'S OFFICE

1997 LEASE REVENUE BONDS (ARCO ARENA)
DEBT SERVICE SCHEDULE

LEASE YEARS 1-7

Original par: 73,725,000.00
Issue Date: 31-Jul-97
Dated Date: 31-Jul-97
Fixed Swap Rate: #4 6.8450%

#1

#2

#3

#4

DATE	Total Debt Service			SWAP		City (Deferred Capital Notes)*		ARCO Arena		PRINCIPAL REMAINING
	PRINCIPAL	INTEREST	TOTAL DEBT SERVICE	ANNUAL DEBT SERVICE	BOND- HOLDERS	MERRILL LYNCH	CITY PAYMENT	CITY ANL. PMT	ARENA PAYMENT**	
31-Jul-97										
15-Oct-97		1,051,349.22	1,051,349.22		923,986.20	122,363.02	400,000.00		651,349.22	73,725,000.00
21-Jan-98		1,345,727.00	1,345,727.00		1,205,742.43	139,984.57	400,000.00		945,727.00	73,725,000.00
15-Apr-98		1,177,511.13	1,177,511.13		1,010,646.88	166,864.25	400,000.00		777,511.13	73,725,000.00
15-Jul-98		1,261,619.06	1,261,619.06	4,836,206.41	1,100,691.21	160,927.85	400,000.00	1,600,000.00	861,619.06	73,725,000.00
21-Oct-98		1,345,727.00	1,345,727.00		1,191,631.51	154,095.49	375,000.00		970,727.00	73,725,000.00
20-Jan-99		1,247,601.07	1,247,601.07		1,015,664.27	231,936.80	375,000.00		872,601.07	73,725,000.00
21-Apr-99		1,275,637.05	1,275,637.05		973,209.50	302,427.55	375,000.00		900,637.05	73,725,000.00
21-Jul-99		1,261,619.06	1,261,619.06	5,130,584.19	978,392.19	283,226.88	375,000.00	1,500,000.00	886,619.06	73,725,000.00
20-Oct-99		1,247,601.07	1,247,601.07		1,035,930.97	211,670.11	350,000.00		897,601.07	73,725,000.00
19-Jan-00		1,247,601.07	1,247,601.07		1,201,558.79	46,042.29	350,000.00		897,601.07	73,725,000.00
19-Apr-00		1,261,619.06	1,261,619.06		1,171,508.17	90,110.89	350,000.00		911,619.06	73,725,000.00
19-Jul-00	125,000.00	1,261,619.06	1,386,619.06	5,143,440.27	1,217,399.42	44,219.64	350,000.00	1,400,000.00	1,036,619.06	73,600,000.00
18-Oct-00		1,245,485.78	1,245,485.78		1,300,450.67	(54,964.89)	325,000.00		920,485.78	73,600,000.00
17-Jan-01		1,245,485.78	1,245,485.78		1,306,729.67	(61,243.89)	325,000.00		920,485.78	73,600,000.00
18-Apr-01		1,273,474.22	1,273,474.22		1,114,638.78	158,835.44	325,000.00		948,474.22	73,600,000.00
18-Jul-01	200,000.00	1,259,480.00	1,459,480.00	5,223,925.78	935,571.00	323,909.00	325,000.00	1,300,000.00	1,134,480.00	73,400,000.00
17-Oct-01		1,242,101.31	1,242,101.31		744,010.94	498,090.36	275,000.00		967,101.31	73,400,000.00
16-Jan-02		1,242,101.31	1,242,101.31		497,476.15	744,625.16	275,000.00		967,101.31	73,400,000.00
17-Apr-02		1,270,013.69	1,270,013.69		366,207.38	903,806.31	275,000.00		995,013.69	73,400,000.00
17-Jul-02	295,000.00	1,256,057.50	1,551,057.50	5,303,273.81	411,896.33	844,161.17	275,000.00	1,100,000.00	1,276,057.50	73,105,000.00
16-Oct-02		1,237,109.21	1,237,109.21		389,913.64	847,195.57	225,000.00		1,012,109.21	73,105,000.00
15-Jan-03		1,237,109.21	1,237,109.21		375,130.18	861,979.02	225,000.00		1,012,109.21	73,105,000.00
16-Apr-03		1,264,909.42	1,264,909.42		300,405.36	964,504.06	225,000.00		1,039,909.42	73,105,000.00
16-Jul-03	395,000.00	1,251,009.31	1,646,009.31	5,385,137.15	286,660.44	964,348.67	225,000.00	700,000.00	1,421,009.31	72,710,000.00
15-Oct-03		1,230,424.88	1,230,424.88		248,698.15	981,726.72	175,000.00		1,055,424.88	72,710,000.00
21-Jan-04		1,327,199.87	1,327,199.87		277,105.85	1,050,093.98	175,000.00		1,152,199.87	72,710,000.00
21-Apr-04		1,244,249.88	1,244,249.88		251,798.77	992,451.11	175,000.00		1,069,249.88	72,710,000.00
21-Jul-04	420,000.00	1,244,249.88	1,664,249.88	5,466,124.49	257,198.66	987,051.22	175,000.00	700,000.00	1,489,249.88	72,290,000.00
20-Oct-04		1,223,317.48	1,223,317.48		343,538.14	879,779.34	0.00		1,223,317.48	72,290,000.00
19-Jan-05		1,223,317.48	1,223,317.48		425,539.60	797,777.88	0.00		1,223,317.48	72,290,000.00
20-Apr-05		1,250,807.77	1,250,807.77		533,580.52	717,227.24	0.00		1,250,807.77	72,290,000.00
20-Jul-05	615,000.00	1,237,062.63	1,852,062.63	5,549,505.36	620,333.04	616,229.58	0.00		1,852,062.63	71,675,000.00
19-Oct-05		1,212,910.23	1,212,910.23		701,160.69	511,749.55	0.00		1,212,910.23	71,675,000.00
18-Jan-06		1,212,910.23	1,212,910.23		800,355.90	412,554.33	0.00		1,212,910.23	71,675,000.00
19-Apr-06		1,240,166.64	1,240,166.64		878,715.59	361,451.05	0.00		1,240,166.64	71,675,000.00
19-Jul-06	745,000.00	1,226,538.44	1,971,538.44	5,637,525.55	965,115.98	201,422.46	0.00		1,971,538.44	70,930,000.00
18-Oct-06		1,200,303.07	1,200,303.07		1,029,154.85	171,148.18	0.00		1,200,303.07	70,930,000.00
17-Jan-07		1,200,303.07	1,200,303.07				0.00		1,200,303.07	70,930,000.00
18-Apr-07		1,227,276.18	1,227,276.18				0.00		1,227,276.18	70,930,000.00
18-Jul-07	885,000.00	1,213,789.63	2,058,789.63	5,726,671.95			0.00		2,058,789.63	70,045,000.00
	1,680,000.00	49,724,394.94	53,404,394.94	53,404,394.94			8,500,000.00	8,500,000.00	44,904,394.94	44,904,394.94

* Deferred Capital Notes fully repaid on April 13, 2003
** Reflects the fixed rate obligation and not the actual quarterly lease payment requirements

**CITY OF SACRAMENTO 1997 LEASE REVENUE BONDS (ARCO ARENA)
TREASURER'S OFFICE DEBT SERVICE SCHEDULE**

Principal: 11,352,046.63
Commencement: 1-Jul-04
Fixed Swap Rate: 7.5000%

Debt Service Schedule						
DATE	PRINCIPAL	INTEREST	TOTAL DEBT SERVICE	ANNUAL DEBT SERVICE	PRINCIPAL REMAINING	Accrued Interest
1-Jul-04						
13-Apr-05	11,352,046.63	666,932.74	12,018,979.37		0.00	
1-Jul-05		0.00	0.00		0.00	
Days 365		667,127.12	12,019,173.75			
Actual 360		676,392.78	12,028,439.41			
Exhibit 4B 30/360		851,403.50				
Difference from 30/360 vs 36:			194.38			

Sacramento Kings Limited Partnership ("Team Owner")

McDonough, Holland & Allen ("Team Owner's Counsel" and "Arena Owner's Counsel")

First Trust of California, National Association ("Trustee" and "Paying Agent")

Dorsey & Whitney LLP ("Trustee's Counsel")

Rogers & Wells ("MLCS Counsel")

Merrill Lynch Capital Services, Inc. ("MLCS")

Merrill Lynch & Co., Inc. ("MLC")

Fidelity National Title Insurance Company ("Title Company")

The parties indicated below will deliver ten complete originals of each of the respective documents as indicated below. The documents will be executed in advance of the Closing by the respective parties thereto and delivered no later than the Pre-closing. All of such deliveries will be deemed to have been made in escrow until the final delivery at the Closing has been made.

Responsibility for preparing or assembling the documents is indicated in parentheses.

References to the Arena Refinancing Agreement are to the City's Agreement No. 97-014, dated as of February 5, 1997, a term sheet which by its terms expires at the Closing.

Major Documents

1. Grant Deed to ARCO Arena (executed by Arena Owner and City, approved as to form by City Attorney and attested to by City Clerk) (notarized) (Arena Owner's Representative and Arena Owner's Counsel)
2. Site Lease (executed by City and Authority, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary of the Authority) (sealed) (Section 8(d)(1) of the Purchase Contract) (Bond Counsel)
3. Memorandum of Site Lease (executed by City and Authority, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary of the Authority) (notarized and sealed) (Bond Counsel)
4. Facility Lease (executed by Authority and City, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary of the Authority) (sealed) (Section 8(d)(1) of the Purchase Contract) (Bond Counsel)

19. Notice filed with Secretary of State pursuant to Section 6503.5 of the California Government Code (Bond Counsel)
20. Resolution No. 97-001 (Authorizing the Issuance and Sale of the Bonds and Execution and Delivery of the Legal Documents) (Section 8(d)(16) of the Purchase Contract) (certified by Secretary of the Authority) (Bond Counsel)
21. Certificate of the Authority (executed by Authority) (Section 8(d)(9) of the Purchase Contract) (Bond Counsel)
22. Incumbency and Signature Certificate of the Authority (executed by Authority) (Bond Counsel)
23. Written Request of the Authority (executed by Authority and accepted and agreed to by Trustee) (Section 2.01 of the Indenture) (Bond Counsel)
24. ISDA Master Agreement, U.S. Municipal Counterparty Schedule attached thereto and related Confirmation, each dated as of July 17, 1997 (the "Swap Agreement") (executed by Authority and MLCS) (MLCS Counsel)

Documents Relating to the City

25. Resolution No. 97-180 (Authorizing the Execution and Delivery of the Financing Documents to which the City is a party, the Official Statement and the Purchase Contract) (Section 8(d)(17) of the Purchase Contract) (certified by City Clerk) (Bond Counsel)
26. Charter of the City of Sacramento (certified by City Clerk) (Bond Counsel)
27. Certificate of the City (executed by City) (Section 8(d)(10) of the Purchase Contract) (Bond Counsel)
28. Certificate of the City (executed by City) (Section 8(d)(11) of the Purchase Contract) (Bond Counsel)
29. Certificate of the City Regarding Essentiality of the Leased Facility (executed by City) (Bond Counsel)
30. Subordination, Nondisturbance and Attornment Agreement (executed by City, Authority, Arena Owner and Team Owner, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary of the Authority) (notarized) (Section 13.1 of the Arena Facility Lease) (Team Owner's Counsel)

Documents Relating to Team Owner

31. Team Owner Relocation Assurance Agreement (executed by Team Owner and City, approved as to form by City Attorney and accepted and agreed to by Trustee) (Section 2.10 of the Arena Refinancing Agreement) (Bond Counsel and Team Owner's Counsel)
32. Memorandum of Team Owner Relocation Assurance Agreement (executed by Team Owner and City and approved as to form by City Attorney) (notarized) (Team Owner's Counsel)
33. Security Agreement (executed by Team Owner and Trustee) (Bond Counsel)
34. Subordination Agreement (executed by Trustee, Authority and NationsBank and acknowledgement and agreement by Team Owner) (Team Owner's Counsel)
35. UCC-1 Financing Statement (executed by Team Owner) (Bond Counsel)
36. Approval letter from the National Basketball Association (executed by National Basketball Association, NBA Properties, Inc., NBA Market Extension Partnership and NBA Development and accepted and agreed to by Trustee, City, Authority and Team Owner) (Section 2.10 of the Arena Refinancing Agreement) (Team Owner's Counsel)
37. Certificate of Team Owner, together with Exhibit A, certified Certificate of Limited Partnership for Sacramento Kings Limited Partnership, Exhibit B, certified Certificate of Limited Partnership for Royal Kings Limited Partnership and Exhibit C, certified Articles of Incorporation for Capitol Sports Team, inc. (executed by Team Owner) (Bond Counsel and Team Owner's Counsel)
38. Corporate Resolution, Consent and Certification for Team Owner (Team Owner's Counsel)
39. Assignment and Consent Agreement (senior debt) (executed by Team Owner and NationsBank, N.A.) (Team Owner's Counsel)
40. UCC-1 **Financing Statements** for NationsBank, N.A. (senior debt) (executed by Team Owner) (Team Owner's Counsel)

Documents Relating to Arena Owner

41. Arena Owner Relocation Assurance Agreement (executed by Arena Owner and City and approved as to form by City Attorney) (Section 2.10 of the Arena Refinancing Agreement) (Bond Counsel and Arena Owner's Counsel)
42. Memorandum of Arena Owner Relocation Assurance Agreement (executed by Arena Owner and City and approved as to form by City Attorney) (notarized) (Bond Counsel and Arena Owner's Counsel)

43. Use Agreement (executed by Arena Owner and Team Owner) (Section 13.1 of the Arena Facility Lease) (Arena Owner's Counsel)
44. Memorandum of Use Agreement (executed by Arena Owner and Team Owner) (Arena Owner's Counsel)
45. Certificate of Arena Owner, together with Exhibit A, certified Certificate of Limited Partnership for Kings Arco Arena Limited Partnership, Exhibit B, certified Certificate of Limited Partnership for Royal Kings Arena Limited Partnership and Exhibit C, certified Articles of Incorporation for Capitol Sports Arena, Inc. (executed by Arena Owner) (Section 8(d)(12) of the Purchase Contract) (Bond Counsel and Arena Owner's Counsel)
46. Certificate of Arena Owner regarding Insurance (executed by Arena Owner) (Sections 4.02 and 4.06 of the Facility Lease) (Bond Counsel)
47. Corporate Resolution, Consent and Certification for Arena Owner (Arena Owner's Counsel)
48. Environmental Indemnity by Arena Owner in favor of City (executed by Arena Owner) (Bond Counsel)

Documents Relating to Trustee

49. Certified General Resolution of the Trustee (Authorizing Execution and Delivery of the Indenture), together with Articles of Association (Section 8(d)(15) of the Purchase Contract) (Trustee's Counsel)
50. Certificate of Trustee (executed by Trustee) (Section 8(d)(13) of the Purchase Contract) (Bond Counsel)

Documents Relating to Closing and Other Documents

51. Transfer Agreement (executed by City, Authority, Arena Owner and Team Owner, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary of the Authority) (Bond Counsel)
52. Specimen Bonds (Bond Counsel)
53. Escrow Instructions (executed by Bond Counsel and Arena Owner's Counsel and acknowledged and agreed to by Title Company) (Bond Counsel)
54. Receipt for Bonds (executed by Underwriters) (Bond Counsel)
55. Receipt for Purchase Price by Trustee (executed by Trustee) (Bond Counsel)

56. Receipt for Purchase Price by Title Company (executed by Title Company) (Bond Counsel)
57. DTC Blanket Issuer Letter of Representation (executed by Authority and Depository Trust Company) (Bond Counsel)
58. Preliminary and Final Notices to California Debt and Investment Advisory Committee (Bond Counsel)
59. Certificate of Consent of Bond Insurer Regarding Declaration of an Event of Default and Acceleration under the Indenture (executed by Bond Insurer) (Bond Insurer's Counsel)
60. Certificate of Bond Insurer Regarding Official Statement (executed by Bond Insurer) (Bond Insurer's Counsel)
61. Incumbency Certificate of Bond Insurer (executed by Bond Insurer) (Bond Insurer's Counsel)
62. Municipal Bond Insurance Policy (Section 8(d)(19) of the Purchase Contract) (Bond Insurer)
63. Swap Insurance Policy (Bond Insurer)
64. Debt Service Reserve Surety Bond Insurance Policy (Section 8(d)(19) of the Purchase Contract) (Bond Insurer)
65. Financial Guaranty Agreement (executed by Bond Insurer, Authority and City and approved as to form by City Attorney and Authority Counsel) (Bond Insurer's Counsel)
66. Memorandum of Financial Guaranty Agreement (executed by Bond Insurer, Authority and City, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk, Secretary of the Authority and Assistant Secretary of the Bond Insurer) (notarized) (Bond Insurer's Counsel)
67. CLTA Title Insurance Policy (Section 3.06 of the Arena Refinancing Agreement) (Title Company)
68. Requisition No. 1 (Bond Counsel)
69. Quit Claim Deeds (executed by City and Authority, approved as to form by City Attorney and Authority Counsel and attested to by City Clerk and Secretary to the Authority), together with Escrow Instructions (executed by City, Authority and Trustee) (Section 9.2 of the Arena Facility Lease) (Arena Owner's Counsel and Team Owner's Counsel)
70. Certificate of Calculation Agent (executed by MLCS) (Underwriters)

71. Guarantee of Merrill Lynch & Co., Inc. (executed by MLC) (Underwriters)

Opinions

72. Final Opinion of Bond Counsel (Section 8(d)(2) of the Purchase Contract) (Bond Counsel)
73. No Merit Opinion of Bond Counsel (Section 8(d)(4) of the Purchase Contract) (Bond Counsel)
74. Supplemental Opinion of Bond Counsel (Section 8(d)(3) of the Purchase Contract) (Bond Counsel)
75. Opinion of Counsel to Authority (Section 8(d)(5) of the Purchase Contract) (Authority's Counsel)
76. Opinion of Counsel to City (Section 8(d)(6) of the Purchase Contract) (City's Counsel)
77. Opinion of Counsel to City and Counsel to Authority to Bond Insurer (City's Counsel and Authority's Counsel)
78. Opinion of Counsel to Underwriters (Section 8(d)(7) of the Purchase Contract) (Underwriters' Counsel)
79. Opinion of Counsel to Trustee (Section 8(d)(8) of the Purchase Contract) (Trustee's Counsel)
80. Opinions of Counsel to Bond Insurer (Section 8(d)(20) of the Purchase Contract) (Bond Insurer's Counsel)
81. Opinion of Counsel to Team Owner (Team Owner's Counsel)
82. Opinion of Counsel to Arena Owner (Arena Owner's Counsel)
83. Municipality Opinion of Bond Counsel to Bond Insurer (Bond Counsel)
84. Opinion of Bond Counsel to Bond Insurer Regarding Pledge of Base Rental Payments (Bond Counsel)
85. Opinion of Authority Counsel to MLCS required by Swap Agreement (Authority Counsel)
86. Opinion of MLCS Counsel required by Swap Agreement (MLCS Counsel)
87. Opinion of Counsel to MLC required by Swap Agreement (MLCS Counsel)

88. Opinion of Bond Counsel to MLCS required by Swap Agreement (Bond Counsel)
89. Reliance Letters of Bond Counsel to Underwriters (Swap Agreement & No Merit) (Section 8(d)(2) of the Purchase Contract) (Bond Counsel)
90. Reliance Letters of Bond Counsel to Bond Insurer (Final & Swap Agreement) (Bond Counsel)
91. Reliance Letter of Bond Counsel to MLCS (Swap Agreement) (Bond Counsel)
92. Reliance Letter of Bond Counsel to Trustee (Final) (Bond Counsel)

Closing

At the time of the Closing or as shortly thereafter as is practicable, the parties each will receive on compact disk one signed copy of the documents listed above prepared and executed in connection with the sale of the Bonds, subsequent to the following events:

1. The following documents will be recorded in the office of the Sacramento County Recorder on July 30, 1997:
 - (a) Grant Deed to ARCO Arena.
 - (b) Memorandum of Site Lease.
 - (c) Memorandum of Facility Lease.
 - (d) Memorandum of Arena Facility Sublease.
 - (e) Memorandum of Arena Owner Relocation Assurance Agreement.
 - (f) Memorandum of Team Owner Relocation Assurance Agreement.
 - (g) Memorandum of Financial Guaranty Agreement.
 - (h) Subordination, Nondisturbance and Attornment Agreement.
2. The amount available at Closing will be \$73,725,000.00 computed and will be disbursed as follows:
 - (a) \$762,947.45 will be wired to the Trustee for deposit into the Acquisition Fund.
 - (b) \$70,586,489.75 will be wired by the Underwriters to the Title Company.
 - (c) \$683,449.42 will be retained by the Underwriters as the Underwriters' Discount.
 - (d) \$1,692,103.13 will be wired by the Underwriters to the Bond Insurer in payment of the premium for the MBIA Bond Insurance Policy, the Swap Insurance Policy and the Debt Service Reserve Surety Bond Insurance Policy.
3. The UCC-1 Financing Statements will be filed with the California Secretary of State.

4. The Title Company representative will deliver ten (10) original CLTA Title Insurance Policies in accordance with the Escrow Instructions.
5. MBIA will authorize Bond Counsel to release the municipal bond insurance policies.
6. The Bonds will be delivered to The Depository Trust Company, New York, New York.
7. The Trustee will release to the Underwriters (in New York, New York) the Bonds in the aggregate principal amount of \$73,725,000.00.

COPY

EXECUTION COPY

3 of 6

City Agt
92-014

ARENA REFINANCING AGREEMENT

by and between

CITY OF SACRAMENTO
("City")

and

KINGS ARCO ARENA LIMITED PARTNERSHIP
("Owner")

Dated as of February 5, 1997

Arena Refinancing Agreement
City of Sacramento
and
Kings Arco Arena Limited Partnership

Dated February 5, 1997

A request can be made to the City to obtain this document. The document consists of the following:

1.	Agreement	30 Pages
2.	Exhibit 1 Legal Description	3 pages
3.	Exhibit 2 Amendment Term Sheet	5 pages
	Attachment A to Exhibit 2	9 pages
4.	Exhibit 3 City Lease Term Sheet	3 pages
5.	Exhibit 4 COP Term Sheet	4 pages
	Attachment A to Exhibit 4	5 pages
6.	Exhibit 5 Calculation of Arena Net Operating Income	4 pages
7.	Exhibit 6 Refinance Term Sheet	3 pages
	Term Sheet	2 pages
8.	Exhibit 7 Revenue Anticipation Bond Term Sheet	2 pages
9.	Exhibit 8 Sublease Term Sheet	11 pages
10.	February 5, 1997 Resolution 97-065	
11.	February 13, 1997 Resolution 97-088	

AMENDED

RESOLUTION NO. 96-291

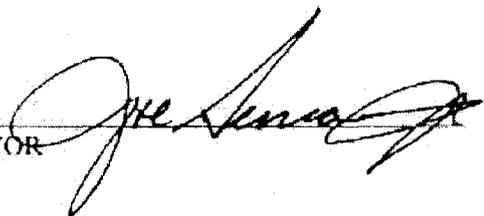
ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF JUN 1 1996

A RESOLUTION ESTABLISHING SPORTS POLICY
FOR THE CITY OF SACRAMENTO

BE IT RESOLVED by the City Council of the City of Sacramento that the attached Sports Policy is hereby approved.

MAYOR



ATTEST:

CITY CLERK



FOR CITY CLERK USE ONLY

RESOLUTION NO: 96-291

DATE ADOPTED: JUN 1 1996

ATTACHMENT 1

SPORTS POLICY

This policy establishes the roles of the City and County of Sacramento in the retention and attraction of sports teams and sporting events and outlines guidelines for the appropriate level of support which may be offered as incentive for the location of teams or events in Sacramento County.

A major assumption of this policy is that major sports franchises and events, whether located in the city or county have positive economic and quality of life impacts on all the citizens of Sacramento.

The short-term goal of the City and County is to position Sacramento to be competitive for major professional sports and events attraction. The long-term goal of this policy is to attract major professional franchises to Sacramento.

Roles

The Sacramento City Council is the decision-making body for any land use, environmental impact, or fiscal issues that may be associated with the location of sports teams and/or sports events within the city limits;

The Sacramento Board of Supervisors is the decision-making body for any land use, environmental impact or fiscal issue that may be associated with the location of sports teams and/or sports events within the unincorporated county;

The Sacramento Sports Commission has been established by the City and County of Sacramento to act as the coordinating and facilitating body to augment the efforts of the private and public sectors to attract professional sports teams and major professional and amateur sporting events to the Sacramento region.

Guidelines for Public Involvement

To facilitate the retention and attraction of sports and sporting events in the Sacramento area, the City and County shall offer appropriate incentives under the following scenarios:

1. A sports franchise owner desires to locate his/her franchise within Sacramento and is on the priority list of sports teams identified below;

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2. A local group of investors desires to purchase and locate in Sacramento an existing or expansion sports franchise, identified on the priority list of sports teams below;
3. A non-local group of investors desires to purchase and locate in Sacramento an existing or expansion sports franchise identified on the priority list of sports teams below;
4. A sports franchise owner or group of investors desires to build a sports facility on city/county-owned property.
5. A national or international sports event is offered for which Sacramento meets the eligibility criteria to become host city.
6. A sports events is offered which generates a significant number of overnight visitors.

Priority Sports Teams for Attraction/ Retention

The operation of professional sports teams have a significant economic impact on the local economy by generating direct spending inside the stadium (i.e., admissions, concessions, parking) and outside of the stadium (i.e., restaurants, retail, transportation). Additional spending generated by teams come from visiting teams, coaches and umpires, as well as player/management salaries and advertising. Given these economic impacts, the following sports teams will be targeted for retention/attraction:

•**NBA Basketball**

The Sacramento Kings franchise provides national media exposure for Sacramento and, as evidenced by a high level of community support, is a popular local attraction. Efforts should be on-going to retain the franchise in Sacramento.

•**CISL Soccer**

The Sacramento Knights played for the Continental Indoor Soccer League Championship in 1995. This team has strong attendance at home games played at Arco Arena. Continued support of this team will also help the NBA Kings, since both are owned by the same corporation.

•**Major League Baseball**

The growth in the population and effective buying income of the Sacramento region is evidence that a team could be supported in Sacramento. Popularity of baseball in Sacramento is demonstrated by an estimated 5-10% of San Francisco Giants/Oakland A's season ticket holders being from the Sacramento area. Given the adopted zoning for a stadium of the size to support Major League Baseball, the city should support private efforts to attract a Major League Baseball team to Sacramento.

•**NHL/IBL Hockey**

The growth of hockey in the last decade (five NHL expansion teams have been awarded since 1990) demonstrates its increasing popularity to a large segment of the population.

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Neutral site NHL games in Sacramento were successful and demonstrated the ability to jointly use the Arco facility. The City should support private efforts to attract hockey to Sacramento.

• **Minor League Baseball**

Sacramento successfully supported the minor league Solons for a number of years with attendance reaching an estimated 200,000 in a year. As an interim step in the acquisition of a Major League Baseball franchise, a successful Minor League Baseball in Sacramento may present a convincing argument for an Major League expansion team. In addition, an interim facility could accommodate potential weeknight games of other Major League teams which suffer from low attendance in their own host cities. The City should support private efforts to attract a minor league team to Sacramento.

• **NFL Football**

The growth in the population and effective buying income of the Sacramento region is evidence that an NFL team could be supported in Sacramento - Jacksonville and Charlotte, the last two NFL expansion teams awarded, both have population and effective buying incomes less than Sacramento. Given the adopted zoning for a stadium of the size to support an NFL team, the city should support private efforts to attract a NFL team to Sacramento.

Type of Public Investment or Participation

The type and amount of public investment will be evaluated on a case by case basis. Any investment or public participation will reflect the value to the Sacramento community, as well as the potential for success.

• **Expedited permits**

City or County assistance in gathering all permitting bodies together and working through related issues in a timeframe which meets the needs of the private sector.

• **Early review of land use decisions**

City Council consideration of land use applications prior to full staff review in order to address outstanding issues or areas of concern and to reach tentative agreement on the development approach.

• **Processing of deposits for season ticket reservation program**

Use of City's existing Convention Center reservations system to assist in processing ticket deposits and pre-sold tickets.

• **Target public infrastructure spending**

City may consider redirecting a portion of budgeted infrastructure improvements for roadways, drainage, or utilities to an area that would facilitate private development, providing that such development is consistent with economic development goals.

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• **Contribution of land as public equity to facility**

City may contribute city-owned land for private development of sports facility provided that usage of the facility is used for the benefit of the public.

• **Public financing supported by stadium revenues**

Private development of a stadium which projects a guaranteed annual net cash flow may be granted public financing.

• **Public financing supported by ownership interest in franchise**

City may consider constructing stadium should an ownership interest in a franchise be offered, depending on the financial history and projections for the franchise.

• **Construction of facility with public resources, with voter approval (City only)**

Any amount of direct public subsidy for facility development will be considered only with approval by Sacramento voters through a referendum process. Regional funding would be a priority.

• **Public participation in management of facility to generate cash flow year round**

City may enter into agreements with various facility operators and promoters to market stadium and ensure profit making uses year round.

• **Commitment to profitability of facility**

City may enter into agreements/MOUs with existing facility operators to avoid competition and/or duplication of effort.

Location Priorities - Baseball Stadium

The priority location for a Major League stadium is in the downtown area. The target area is bounded by the Sacramento and American Rivers on the west and north, and by "I" and 2nd Streets on the south and east. Sites for consideration should include the Southern Pacific Railyards, Richards Boulevard, and City property behind the Water Treatment Plant site.

The North Natomas site owned by the City should always be available as a site option in the event that a downtown site cannot be acquired from a willing seller.

Staff Responsibilities

The following entities shall be the points of contact on issues related to this policy.

Sacramento Sports Commission (SSC) - Director of Sports Development is responsible for actively promoting Sacramento at professional sports league and association meetings, researching available sports franchise opportunities and recruiting major sporting events to Sacramento.

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- SSC briefs professional leagues, team owners and potential investors of sports policy.
- SSC continues pursuit of major events, utilizing the staff above to assess appropriate incentives and developing proposals that have a maximum return to the City or County.
- SSC prepares prospectus consisting of sports policy and facility assessment (to be prepared).

City Manager's Office - Office of Economic Development is responsible for providing information on the economic impacts of sports franchises, sporting events, land use decisions and facility development within the Sacramento city limits and defining what, if any, assistance is appropriate.

County Executives Office - Responsible for providing information on the economic impacts of sports franchises, sporting events, land use decisions, and facility development within Sacramento County and defining what, if any, assistance is appropriate. Also responsible for providing fiscal analysis of public participation or support in facility development through the Office of Debt Management.

City Treasurer - Responsible for providing fiscal analysis of public participation or support in facility development within the City of Sacramento.

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**Comments and Updates on
Responses to the 2005 - 2006
Grand Jury Report**

COMMENTS AND UPDATES ON RESPONSES TO SELECTED FINDINGS AND RECOMMENDATIONS OF THE 2005-2006 GRAND JURY REPORT

Introduction

This section serves two distinct purposes.

First, the comments will apprise the citizens of Sacramento County on the sufficiency of the responses to selected findings and recommendations of six designated reports. Were the responses on target and thus did the agencies and officers required by law to provide these responses fulfill their 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 on a review of the responses to each of the specified findings and recommendations and are provided pursuant to the authority of the Grand Jury under sections 925 and 925a.

Second, the updates inform the public of progress, or lack thereof, made regarding matters the responding agencies indicated would be remedied within a certain time frame.

At the request of the preceding Grand Jury, these updates required the current Grand Jury to conduct a supplemental inquiry for the sole purpose of monitoring such progress.

Responses to six of the nine reports warranted review. For each of those six, some or all of the responses to findings and recommendations were selected for comment or update. The number of each finding and recommendation responded to corresponds with its designated number in the 2005-2006 Final Report. Accordingly, the numerical gaps are intentional.

For each report reviewed, the Issue Statement and the Reason for Investigation are reprinted from the 2005-2006 Final Report. Following those restatements are a summary of the finding and recommendation in question, a summary of the response, followed by the 2006-2007 Grand Jury comments upon the response to each finding and recommendation.

The complete 2005-2006 Grand Jury Report and responses from the affected agencies can be found at www.sacgrandjury.org or obtained by mail to the 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.

Main Jail Health Care¹

Issue

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

Reason for 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Finding and Recommendation 1:

Chronic understaffing of nurses has led to an inability to consistently conduct nurse sick call Monday through Friday, resulting in significant delays in inmate health care. The 30% vacancy rate for nurses must be lowered, and reliance on the Nurse Registry reduced.

Summary of Response by Sheriff:

County salaries and benefits for correctional nurses are not competitive with other public and private employers of nurses in the area. The sheriff has advised the county executive, in the midst of ongoing contract negotiations, of the need for a contract that renders correctional nurse compensation competitive in the market place.

Comments and Updates:

As a result of contract negotiations with the California Nurses Association, the union representing the Nurse Practitioners (NP) and Registered Nurses (RN), the county agreed to a 22% equity increase over five years and an additional 2 to 5% cost of living each year for the NPs and RNs. The same contract removed the Supervising Registered Nurses (SRN) from the agreement, and the county accepted the SRNs into the management classification. The county also negotiated with the Association of Federal, State, County and Municipal Employees, the union representing the Licensed Vocational Nurses (LVN) and Medical Assistants, and agreed to a 12% equity increase over five years, an additional 2 to 5% cost of living each year, and a 5% increase of the Correctional Recruitment Incentive. As a result of these negotiations, more candidates have applied for positions, and two full-time RNs, four on-call RNs and two full-time LVNs have been hired.

¹ Pages 3-8 of the 2005-2006 Grand Jury Final Report

Summary in Part of Finding and Recommendation 2:

To provide measurable performance standards that permit jail officials and the public to better assess the quality of health care delivery, the jail should seek accreditation by the Institute for Medical Quality through its Corrections and Detentions Survey Program.

Summary of Response by Sheriff:

County Correctional Health Service will be positioned to seek accreditation as soon as the automated pharmacy system is implemented (see Finding and Recommendation 4), all medical services can be supported by adequate levels of staff (see Finding and Recommendation 1), and correctional nurses are no longer violating Title 15 (California Code of Regulations) by collecting forensic evidence. Funding is being sought to contract out the collection of forensic evidence.

Comments and Updates:

In addition to adequate staff levels with respect to which significant progress has been reported previously, two problems have blocked accreditation. The first involves the use of nurses to collect forensic evidence, which is seen as a misuse of medical services. The Grand Jury is advised that, effective February 1, 2007, the Sheriff's Department will contract with Valley Toxicology Services, Inc., to provide on-site forensic evidence collection from inmates at the Sacramento County Main Jail for the purpose of prosecution. County nurses will no longer be at risk of coming into contact with an inmate from whom they have collected forensic evidence that could result in the inmate's conviction. The second problem involves the automation of the pharmacy system, which has not been resolved (see Comments and Updates for Responses to Finding and Recommendation 4).

Summary in Part of Finding and Recommendation 3:

Nurses are at risk during sick call when they are alone with an inmate. A custodial officer should be stationed outside the examination room during sick call.

Summary of Response by Sheriff:

Concur. A number of safety measures have been implemented over the past several months to better ensure nurse safety. A budget request has been submitted requesting additional deputies to stand by during nurse sick call.

Comments and Updates:

The Grand Jury is advised that the Sheriff's Department received four additional deputy positions this fiscal year at the main jail to work with the nurses during sick call; this program was implemented in early November 2006.

Summary of Finding and Recommendation 4:

The current means of dispensing medication to inmates is a manual operation that increases dispensing errors and does not allow for inventory control. The Grand Jury has been advised for the past several years that the system was scheduled for replacement with a computerized system for the distribution and inventory of inmate medication.

Summary of Response by Sheriff:

The county wide computerized pharmacy system will be introduced into the Sacramento County Main Jail and the Rio Cosumnes Correctional Center in late August or early September 2006.

Comments and Updates:

The computerized pharmacy system is not in place and there is no target date for implementation. The pharmacy system for the jails is part of a countywide system that includes all departments receiving medications from the pharmacy. The Grand Jury is advised that the vendor is experiencing considerable difficulty developing the promised software needed for the project; the vendor and the county are working together to resolve outstanding issues. In the alternative, the Sheriff's Department may elect to submit a separate bid for the county jail facilities.

Elk Grove City Council and the Handling of Political Dissent²

Issue

Do Councilman 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 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Finding and Recommendation 1:

At an open meeting of the EGCC on April 27, 2005, Councilman Leary threatened to deny grant funds to any organization, any member of which publicly criticized the council with respect to its policies or services. Leary's remarks, which were intended, designed and clearly perceived as a means of limiting political dissent, were inconsistent with the proper role of a legislative body of a local agency. It was recommended that such remarks be censured by the city council in open session.

Summary of Response by Mayor and City Council:

The city's response delves into a number of perceived difficulties it would have in censuring Leary's remarks, invoking certain legal principles which are entirely impertinent. For example, the city

² Pages 9-12 of the 2005-2006 Final Report

responds that it cannot censure members of the city council “for purely legislative actions,” or for speech “that is protected by the First Amendment.”

Comments and Updates:

First, not a single word is spoken in the city’s response respecting the propriety of Councilman Leary’s remarks. Second, the remarks do not constitute “legislative action,” and the assertion that the “doctrine of legislative immunity,” which would protect the councilman from an action at law for civil damages, entirely misconceives the purpose and effect of a Grand Jury report. Third, it is ludicrous to suggest that speech which is intended and designed to impair the First Amendment right of political dissent is “protected by the First Amendment.” The Grand Jury cited in its discussion a number of cases, including a United States Supreme Court case, to the effect that a funding decision by a public agency cannot be aimed at suppressing criticism.

Summary of Finding and Recommendation 4:

In response to a constituent’s email critical of Councilman Leary’s action at a meeting of the city council on June 16, 2004, which he viewed as anti-law enforcement, he threatened through official law enforcement channels of communication to publicly expose a past misdemeanor conviction of the constituent. It was recommended that Councilman Leary, who is also an employee of the Sacramento County Sheriff’s Department, refrain from using any official law enforcement channel of communication to engage in any non-law enforcement related activity.

Summary of Response by Councilman Leary:

Councilman Leary tendered no response to any of the Findings and Recommendations of the Grand Jury report, by way of explanation, apology, or otherwise.

Comments and Updates:

Certainly, the use of a law enforcement channel of communication adds yet another dimension to the councilman’s disregard for fair play which cannot be obfuscated by impertinent references to the legislative immunity or the First Amendment. To this extent, the councilman’s silence is predictable and informative.

City of Isleton Police Department³

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?

³ Pages 17-20 of the 2005-2006 Grand Jury Final Report

Reason for 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Finding and Recommendation 1:

The citizens of Isleton deserve to have Peace Officer Standards and Training (POST) qualified police officers. The city should take all steps necessary, including request for assistance from other law enforcement agencies, to rectify its long standing non-compliance with POST regulations pertaining to the qualification and training of police officers.

All background investigations for Isleton police officers should be conducted by a peace officer qualified to conduct such investigations by a POST accredited training facility.

Summary of Response by City of Isleton Chief of Police:

The Grand Jury is advised as follows:

- All current full-time officers have been trained in POST accredited academies.
- The City of Isleton has appointed a retired California Highway Patrol Officer, and has sent him to a POST certified background investigator school. Background checks of the two full-time peace officers have been completed to POST standards.
- The city's new hiring program includes a written test, background check, psychological examination, medical examination, personal interview, and recommendation from the background investigator. "We have no more of 'The Good Ol' Boy' hiring practices."

Comments and Updates:

The city did regain POST certification in May 2007.

Flood Disaster Evacuation of the Medically Infirm⁴

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?

⁴ Pages 29-41 of the 2005-2006 Grand Jury Final Report

Reason for 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Finding and Recommendation 1:

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

Summary of Response from the Office of Emergency Operations for the County Executive:

Concur. The Flood Annex is a high priority for the Office of Emergency Operations and is currently in review for a fall completion.

Comments and Update:

The Grand Jury is advised that the Flood Annex to the Sacramento County Multi-Hazard Emergency Operations Plan is complete.

Summary of Finding and Recommendation 2:

The Sheriff's Office has not yet fully developed a mass evacuation plan due to a flood disaster. The Sheriff's Office should complete such a plan, including provisions for evacuation of the medically or mentally infirm due to age or disability, by August 2006.

Summary of Response from the Sheriff:

Concur. If the Sacramento County Board of Supervisors approves a funding augmentation, a consultant will be hired to assist in the development of an All Hazards Mass Evacuation Plan.

Summary of Response from Office of Emergency Operations:

Concur. A draft evacuation annex to the county's All Hazards Emergency Operations Plan has been developed and is being coordinated with a working group of other public and private agencies to clarify roles and responsibilities among response agencies and develop response processes to address evacuation of the medically or mentally infirm due to age or disability. Emergency Operations has received a funding augmentation of \$150,000 to hire a consultant to assist in addressing the special

needs preparedness and to incorporate these issues into the local and regional evacuation plans.

Comments and Updates:

The current status of planning for mass evacuation includes a committee engaged in securing, coordinating and developing transportation resources for evacuation. This group is working on development of evacuation transportation procedures and staging of resources. The City of Sacramento has taken the lead on developing a detailed evacuation plan for the city, and has hired a consulting firm. That plan is in development with completion anticipated prior to the publication of this report. The county will follow “when staffing allows,” using the same methodology and likely the same consultant to develop an evacuation plan for the unincorporated area that complements city evacuation plans and incorporates operational area wide resource coordination and support for evacuation, with a projected completion in late 2007. An advisory committee of representatives from advocacy groups representing a cross-section of special needs populations was established in late 2006. This group will participate in the evacuation planning process when the county undertakes its evacuation planning.

Summary of Finding and Recommendation 3:

The county should develop and maintain a comprehensive database to facilitate emergency communications in the event of a flood. This database would provide the locations 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. For this purpose, each such provider or facility should be required to maintain a current list of client telephone numbers and addresses.

Summary of Response from the Office of Emergency Operations for the County Executive:

Concur. Currently, there is not a database in the county which contains this type of information. A portion of a recently approved funding for special needs evacuation planning will be used to initiate the collection of service provider information and to contact regulatory agencies to determine whether providers are maintaining or can be required to maintain current contact lists for their clients. The project will begin in the winter, 2006 – 2007.

Comments and Updates:

An evacuation planning meeting was held in February 2006 for service providers and advocacy groups to identify evacuation issues and capabilities and to solicit support from service agencies for evacuation of special needs populations. Service providers were asked to participate in the notification process, educating their clients in emergency preparedness, and making arrangements to assist their clientele during evacuation emergencies. The county will participate in a State Department of Social Services project, a portion of which is to identify service providers and incorporate their assistance in evacuation and sheltering plans, rather than develop a process that is not consistent with the state’s model.

Summary of Finding and Recommendation 4:

The “Privacy Rule” component of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) 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. The county should secure and distribute to all pertinent public and private agencies a formal opinion of the Sacramento County Counsel and/or the California Attorney General on the effect of HIPAA upon the sharing of lists of such information in the event of an imminent disaster.

Summary of Response from the Department of Compliance for the Department of Health and Human Services:

The Department of Compliance, Office of HIPAA, has requested a formal opinion from county counsel regarding the sharing of protected health information in the event of an imminent disaster. Upon receipt of the legal opinion, a determination will be made regarding its distribution. Because county counsel legal opinions apply only within the county’s legal entity, the value of disseminating such an opinion, other than for information, must be evaluated.

Comments and Updates:

It would be a tragedy if lives were lost because of a misconception either as to the effect of HIPAA’s “Privacy Rule”, or as to the effect of a county counsel’s opinion. Such an opinion is advisory in nature and is disseminated for purposes of information. Its value lies in the expertise of its source, its objectivity, its levels of review, the persuasiveness of its analysis, and the respect that it has come to deserve among the citizens and agencies of the county, including the Grand Jury. Unless for some reason the direct recipient of a county counsel’s opinion were to assert an attorney/client privilege, there should be no constraint upon its dissemination, as recommended, to “all pertinent public and private agencies.” While the Grand Jury has no jurisdiction beyond the County of Sacramento, it is noted that if the county counsel were, in addition to his own opinion, to request the California Attorney General to issue an opinion on the same question, such an opinion could be disseminated to all counties on a statewide basis.

Summary of Finding and 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.

Summary of Response in Part from the Department of Health and Human Services:

Public Health, Sacramento area hospitals, and the Hospital Council of Northern and Central California (HCNCC) are currently in the process of selecting and contracting with a consultant to develop a coordinated regional hospital plan intended to maximize the available medical surge capacity through efficient use of local resources. The scenarios on which the planning will be based include pandemic influenza and floods. Health Resources and Services Administration Bioterrorism Hospital Preparedness Grant funds, which are distributed locally through the Public Health Division, are being utilized to fund this project.

Comments and Updates:

HCNCC retained a consulting firm to develop a plan addressing hospital specific issues for a coordinated response to events that result in multiple casualties on a large scale. The plan encompasses the greater Sacramento area, including hospitals in adjacent counties that regularly interface with health systems within Sacramento County. The plan, which is possibly the first of its kind in California, is scheduled for completion by June 30, 2007.

Summary of Finding and Recommendation 8:

While the county has provided for mass shelters for general population evacuees, the county should provide, reserve, staff and equip one or more shelters to care for the special needs of the medically or mentally infirm due to age or disability.

Summary of Response from the Department of Health and Human Services:

Under the leadership of the Office of Emergency Operations, a multidisciplinary task force consisting of Emergency Operations, the American Red Cross, Animal Control Services, Department of Human Assistance and Public Health are currently in the process of conducting an assessment of potential sites throughout the county that could serve a variety of emergency response functions. These potential functions include general shelters, shelters able to accommodate domestic pets, special needs shelters for the medically or mentally infirm, alternate medical treatment sites, and mass prophylaxis clinics. Following collection of site assessment data, the next step will be to determine the suitability of each site for any of the proposed purposes.

Comments and Updates:

At least nineteen sites consisting of schools and community centers have been surveyed. These surveys will continue until May 2007, for a projected total of 33 facilities. The ultimate goal is to pre-identify a large number of facilities geographically situated in such a way as to provide a range of options for activation. Public Health has a limited role with respect to sheltering functions, but is participating in this process to the extent that it assists in the planning and coordination of the Department of Health and Human Services and community based healthcare resources to provide needed medical support in shelter operations.

Goals and Objectives of Mental Health Services in Sacramento County under the Mental Health Services Act⁵

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?

⁵ Pages 43-51 of the 2005-2006 Grand Jury Final Report

Reason for 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Finding and Recommendation 1:

The Asian/Pacific Islander community, and each of the component ethnicities within that designation, are among the most underserved populations in the county. The county should make every effort to increase the penetration rate of the Asian/Pacific Islander population by 1.5%, i.e., from the current percent to the current percent plus 1.5%, within the first year of the three year plan.

Summary of Response by the Division of Mental Health:

Concur. The county will support collaborative relationships between the Transcultural Wellness Center and other programs to ensure outreach and engagement with the Asian/Pacific Islander community. The county will also continue current outreach efforts and will aim to increase the penetration rate of the Asian/Pacific Islander community by 1.5% within the first year of the three year plan.

Comments and Updates:

Since the first year of MHSA program services has not yet transpired, sufficient data respecting the projected attainment of the 1.5% goal is not available.

Summary of Finding and Recommendation 2:

More than 50% of youth and 37% of adults in homeless shelters have been identified as African American. In the county's general population, 14% of youth and 10% of adults are African American. 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.

Summary of Response by the Division of Mental Health:

Concur. Current data show that 30% of adult homeless mentally ill population is African American. The county will continue to target this population in outreach and engagement efforts and monitor progress toward increasing this population's participation in the housing program.

Comments and Updates:

Some ethnic groups have a much greater percentage representation among the homeless population than others. For example, African American adults, who comprise 10% of the general population,

comprise 37% of the homeless population, and the disparity is markedly enhanced with respect to youth. It is this disparity which should motivate the county's outreach efforts in the housing program. In either case, since the first year of MHSA program services has not yet transpired, sufficient data regarding the projected increase of African American participation in the housing program is not available.

Summary of Finding and Recommendation 3:

The Latino population, which has been identified as unserved or underserved in terms of mental health services, should be a prime target of the county's outreach and engagement for participation in housing and other mental health programs.

Summary of Response by the Division of Mental Health:

Concur. The county will continue efforts to increase this community's awareness of and participation in mental health services, through active recruitment of bilingual and bicultural staff.

Comments and Updates:

Since the first year of MHSA program services has not yet transpired, sufficient data regarding the projected increase of Latino participation in housing and other mental health programs is not available.

Summary of Finding and Recommendation 4:

The oversight of the Sacramento County Grand Jury should continue, through the County Community Services and Supports Three Year Plan, to monitor the effectiveness of the MHSA programs. The Division of Mental Health Services should apprise the 2006-2007 Grand Jury of data, as they become available, relating to the effectiveness of the five programs under consideration, in relation to services rendered to underserved ethnic groups.

Summary of Response by Division of Mental Health:

The Mental Health Board, county hierarchy and state departments are already serving in an oversight capacity over the MHSA. It is believed that this oversight is sufficient. The Division of Mental Health Services will apprise the 2006-2007 Grand Jury of data, as they become available, relating to the effectiveness of the five programs.

Comments and Updates:

The current Grand Jury understands how the term "oversight" as used in the previous year's report could have been overbroadly interpreted. Based on the actual terms of the recommendation, however, it was requested only that the current Grand Jury be apprized of the specific data referred to as they become available. The Division did concur with this recommendation. The Grand Jury extends the request that the Division of Mental Health apprise the 2007-2008 Grand Jury of such data, as they become available.

City of Citrus Heights Oversight of Contract Services⁶

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 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.

Comments and Updates on Selected Responses to Findings and Recommendations

Summary of Findings and Recommendations 1 and 2:

The City of Citrus Heights did not exercise adequate oversight of contract services. There was no confirmation that all the debris had been removed from the site. When the subsequent owner discovered and reported that a substantial quantity of the debris had been buried at the site, the city denied responsibility. The city should institute an effective system of monitoring and overseeing contracts, including confirmation that the work was fully performed. The city should assume accountability when a vendor with whom it contracts fails to comply with its obligations.

Summary of Response by the City Manager:

(Note: Respondent city made no attempt to follow the instructions provided to it on how to respond to a Grand Jury report in the manner prescribed by law.) In responding to particular sentences of the report, the city asserted that it conducted an on-site inspection during the demolition. Further, the city “did not witness any improper actions by the contractor during the inspection.” The City Building Inspector inspected the site upon completion of the job, and “did not see any improper actions by the contractor.” The city further responded that “It is possible the contractor buried debris, but without complete and continuous monitoring, it would be impossible to have observed such activity.” Even after the fact that the debris had been buried on-site was verified, the city concluded that it had no responsibility in the matter. Finally, based on the city’s contract with the contractor, which indemnified the city against loss in connection with the performance of the contracted services, the city tendered the new owner’s claim to the contractor’s insurance company.

Comments and Updates:

The city’s response is implausible and untenable in its denial of responsibility, whether on the basis

⁶ Pages 57-59 of the 2005-2006 Grand Jury Final Report

that no improper activity by the city or its contractor occurred, or on the basis that the city may avoid responsibility by tendering the claim for loss to the contractor's insurance company. With respect to the occurrence of improper activity, it is certainly feasible that the city's inspectors "did not witness" any such activity while they were standing there inspecting the work, and "did not see" any evidence of such activity upon final completion. However, those self-vindicating assertions pale upon the presentation of proof positive that a large amount of debris, which the new owner (son of the former owner) clearly identified, and which the city does not controvert, as being attributable to the former residence, had been buried on the site. Hence, the city's position must be that at some time after the completion of the job, including the removal of all debris from the site, a mysterious third party dug a hole on the site and, unnoticed by anyone, retrieved a substantial amount of the debris which had been removed by the contractor and buried it in the hole. In any event, the new owner, applying for a permit to build a new structure there, was required to first remove the debris at a cost asserted by him to be in the order of \$20,000. With respect to the city's assertion that it did tender the claim for reimbursement of expenses to the contractor's insurance company pursuant to an indemnity clause in the contract, such action does not absolve the city's responsibility to the owner. The city is certainly free to contract with a third party agency for the performance of its municipal obligations, but the city remains accountable for the failure of its agent to complete the job. The indemnity provision empowers the city to assert its losses against the contractor. Here, the city seems to be asserting a claim against its contractor's insurance company for losses it did not suffer and which it affirmatively disclaims.