



**2009 - 2010
Final Report**

sacgrandjury.org



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Final Report**

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Sacramento County GRAND JURY



Rosemary Kelley
Rudolph Castro
Michael Chakerian
Honoruth Corbett
Laverne Cord
Odette Ebersole
Lyle Hoag
Jerry Jagers
Elizabeth Knopf
Philip Milano Jr.
James Monteton
David Pritchett
Donald Scharon
Ronald Schreiber
David Smith
Robin Whiting
Krystal Wolfe
Sharrel Wyatt
Gary Ziegenfuss

June 30, 2010

The Honorable Steve White
Presiding Judge 2010-2011
Sacramento County Superior Court

Re: 2009-2010 Sacramento County Grand Jury Final Report

Dear Judge White,

On behalf of the 2009-2010 Sacramento County Grand Jury, I am pleased to present this final report to you and the citizens of Sacramento County.

The Grand Jury's job is to observe and investigate government agencies to ensure they are being run efficiently, honestly and fairly. We took that job seriously. The members of the grand jury worked tirelessly, meeting, as a panel or in committees, almost 300 days since beginning our service on July 1, 2009. We toured many county facilities, including all penal institutions located in the county. We reviewed thousands of pages of documents and met with or interviewed more than one hundred agency and departmental representatives and employees. All together thousands of hours were spent in the preparation of the final report. There are 18 reports in this publication; five of these reports were published in advance.

Each year, the grand jury has to choose what issues to address and where to focus its resources to best serve the public. We chose a wide range of topics. Our goal was to seek issues which were important to the community and where we thought the grand jury could contribute. Investigative reports are addressed to particular governmental bodies and must be responded to by those bodies. However, we hope that the reports are useful and enlightening to a broad audience.

Although it is sometimes the role of the grand jury to criticize, we want to acknowledge all of the hardworking government employees in Sacramento County. When we criticize, we do so not to point out any human imperfection, but to draw attention to systems that could be improved and to recommend ways to improve them. It has been a privilege to have had such a close view of the intricacies and complexities of our government.

Our job was easier because we worked with terrific people, and we want to thank all of them. Particularly we want to thank our Advisor Judges, Judge

Raymond Cadei and Judge Russell Hom, the office of Sacramento County Counsel, representatives of the District Attorney's Office and our Grand Jury Coordinator, Rebecca Castaneda. We also wish to thank all those who provided us information, assisted us in our research and appeared before us. Everyone treated us with courtesy and respect, and we appreciate it.

We also acknowledge and thank every person who took the time to file a complaint with the grand jury. You should know that your voice is heard. Good government flourishes where citizens listen and take the time to speak.

I am very proud and fortunate to have served as foreperson of the 2009-2010 Sacramento County Grand Jury. Every member of the grand jury is dedicated, honorable and stouthearted. It has been a pleasure and honor to have served with them.

Sincerely,

Rosemary Kelley
Foreperson, Sacramento County Grand Jury
2009-2010 Sacramento County Grand Jury

RK/bc

2009-2010 SACRAMENTO COUNTY GRAND JURY



1st row: (left to right) Honoruth Corbett, Gary Ziegenfuss, Rudolph Castro
Rebecca Castaneda (Grand Jury Coordinator), Judge Raymond Cadei,
Michael Chakerian, Odette Ebersole, Rosemary Kelley (Foreperson)
2nd row: David Pritchett, Krystal Wolfe, Elizabeth Knopf, Gregory Scharon,
Robin Whiting, Sharrel Wyatt
3rd row: James Monteton, Laverne Cord, Philip Milano, Jr., Joe Schreiber,
David Smith

Not Pictured: Lyle Hoag and Jerry Jagers

Sacramento County Grand Jury
2009-2010

Rudolph Castro	Parole Board Chairman, retired	Elk Grove
Michael Chakerian	Airline Pilot, retired	Elk Grove
Honoruth Corbett	Educator, retired	Carmichael
Laverne Cord	Retired	Folsom
Odette Ebersole	School Superintendent, retired	Sacramento
Lyle Hoag	Water Resources Consultant	Fair Oaks
Jerry Jagers	Aerospace Engineer, retired	Sacramento
Rosemary Kelley	Attorney	Sacramento
Elizabeth Knopf	Educator, retired	Carmichael
Philip J. Milano, Jr.	Parole Agent II, Specialist, retired	Folsom
Jim Monteton	ATT&T Marketing Manager, retired	Citrus Heights
Dave Pritchett	Insurance Claims Professional, retired	Sacramento
Gregory Scharon	Air Force, retired	Fair Oaks
Joe Schreiber	Facilities Regional Manager, retired	Sacramento
David Smith	Airline Pilot, retired	Sacramento
Robin Whiting	Registered Nurse	Carmichael
Krystal Wolfe	Communication Worker, retired	Carmichael
Sharrel Wyatt	Administrative Law Judge, retired	Sacramento
Gary Ziegenfuss	Administrative Staff, retired	Sacramento

**The 2009-10 Sacramento County Grand Jury dedicates this
report to our outstanding foreperson.**



Rosemary Kelley

Rosemary has led this Grand Jury through a very busy year that addressed problems concerning city governance, school district funding, water district dysfunction, independent special districts, CPS foster care, juvenile justice and many other topics facing Sacramento County. The success of this year's Grand Jury and the excellence of this report are due to Rosemary's fair but strict leadership and guidance.

Rosemary, after raising a family of three, went back to school, and in 1988 received a *Doctorate of Jurisprudence with great distinction, Order of the Coif*, University of the Pacific, McGeorge School of Law. After passing the State Bar of California, Rosemary practiced law with Weintraub Genshlea Chediak in their litigation group. After retiring from active law practice, Rosemary volunteered and was selected to be the Foreperson of the 2009-2010 Sacramento County Grand Jury. We thank you for all your hard work and dedication.

Formation and Organization of the Sacramento County Grand Jury

Based on the authority of Penal Code section 933, the grand jury is an independent body that reviews the operations of the cities, schools, special districts and penal institutions within Sacramento County. The grand jury is an extension of the county's judicial system. Therefore it has subpoena and interview powers. The grand jury's task is to investigate and inquire into civil matters within the county. These civil matters may be presented to the grand jury through the citizen's complaint process or through jurors acting on their own individual initiative. In addition, the grand jury may be asked by the District Attorney's Office to review allegations of criminal activities in order to obtain a possible felony indictment.

The grand jury is composed of 19 Sacramento County citizens. These citizens have been through a background investigation and drawn at random from a group of 30 citizens who have been nominated by a Superior Court Judge. The grand jury's tenure begins July 1st and ends June 30th of the following year. This year's grand jury consisted of seven different committees: Administrative and Municipal Affairs; Education; Criminal and Juvenile Justice; Environment; Health and Human Services; Continuity; and Edit. Each grand juror served on a minimum of three of the seven committees. Each committee was facilitated by a chairperson. The chairperson was responsible to the grand jury foreperson. In addition to the mentioned committees, this grand jury established an 'ad hoc' committee. An 'ad hoc' committee is established to assist in an investigation when the investigation is so complex, that it needs attention from more than one committee.

The grand jury's business, such as starting an investigation, approving a report, or releasing a final report to the public, takes the vote of a minimum of 12 of the 19 jurors. The grand jury, by law, is forbidden to disclose evidence obtained or to reveal the names of individuals who were interviewed. Similarly, witnesses are prohibited from disclosing any proceedings of the grand jury.

If you are a resident of Sacramento County and are interested in serving on the grand jury, applications are available at www.sacgrandjury.org.

The Making of the Grand Jury Final Report

On June 30th of each year, the Sacramento County Grand Jury issues its Final Report. This report consists of investigative and informational reports that were completed during the tenure of the grand jury. The process by which the final report is completed is a tradition carried over from year to year.

Investigative reports are derived from a citizen complaint, an idea self-generated by a juror or an idea generated by a committee. Based on the subject of a citizen's complaint, the foreperson will assign that complaint to one of the committees within the grand jury. The assigned committee will review the complaint and determine if a problem exists that would justify opening an investigation. If the committee determines that an investigation should be initiated, the committee will present its request to open an investigation to the grand jury. The full grand jury must approve the request for the initiation of an investigation.

If the committee's request is approved, the committee is then responsible for collecting documentary and testimonial evidence to complete a report on its investigation. Investigative reports are not based on conjecture or opinion; they are based on factual evidence. The grand jury is precluded by law from disclosing the source of their evidence except upon the specific approval of the presiding judge, or a judge appointed, in the case of his absence, by the presiding judge, of the County of Sacramento Superior Court (Penal Code sections 911, 924.1(a), and 929). Witnesses are normally interviewed in the presence of the full grand jury, but if that is not possible, a minimum of two jurors must be present during the interview.

Upon completion of the investigation, the committee will draft a report detailing the facts, findings and recommendations for corrective actions. This report must be approved by a majority vote of the committee. Upon approval of the report by the committee, the chairperson will send the report to the Edit Committee for review. The Edit Committee will review the report for things such as, accuracy, conciseness, completeness and clarity. After the Edit Committee's review, the report is returned to the authoring committee.

The authoring committee will send the report to the full grand jury for review and approval. The report needs 12 of the 19 jurors to vote to approve the report. Upon approval of the grand jury, the report is sent back to the Edit Committee for final formatting. At completion of the formatting, the report is sent to the Grand Jury's Advisor Judge and the County Counsel for their review. Upon approval, the report may be released to the public or is held until the release of the final report. This year's grand jury released four investigative reports to the public prior to this final report and three investigative reports were released in this final report.

Informational reports supply information to the public concerning the outcomes of mandatory tours of facilities and/or briefings from specific individuals in departments within Sacramento County. These reports have conclusions and do not have findings and recommendations for corrective actions. Informational reports are generated by the committee to which the tour or briefing is closely related. For example, the Criminal and Juvenile Justice Committee reported on the tour of the county jail. These reports go through the same process as the investigative reports. Upon final approval from the Grand Jury's Advisor Judge and the County Counsel, these reports are generally held until the release of the final report. This year's grand jury released one informational report to the public prior to this final report and ten informational reports were released in this final report.

Every member of the grand jury is directly involved in the formulating, reading and approving of the reports within this Grand Jury Final Report. The 2009-2010 Sacramento County Grand Jury is satisfied that the reports contained in this document are fully qualified for publication. Copies of this report are available at www.sacgrandjury.org, and can be accessed through the Sacramento Public Library.

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Investigative Reports Preface

The 2009-2010 Sacramento County Grand Jury conducted seven investigations. Through the investigation process, factual findings were determined and recommendations from those findings were documented. Specific entities/individuals were asked to correct or adjust items of interest that were identified by the grand jury's findings.

Four of the grand jury's investigative reports were released publicly prior to the release of this final report. They were:

- The City of Sacramento and Proposition 218-The Law is the Law
- Rio Linda/Elverta Community Water District-A Saga of Mismanagement and Water Problems
- Unfunded Liabilities for Retirement Health Benefits-A School District Fiscal Time Bomb!
- The State of Foster Care in Sacramento County

The remaining investigative reports are:

- Survey of Independent Special Districts
- Probation and Education at Juvenile Hall-Juvenile Injustice
- Rio Cosumnes Correctional Center

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Sacramento County GRAND JURY



January 6, 2010

Rosemary Kelley
Elizabeth Andrews
Rudolph Castro
Michael Chakerian
Honoruth Corbett
Odette Ebersole
Lyle Hoag
Jerry Jagers
Elizabeth Knopf
Henry Kroeger
Philip Milano Jr.
James Monteton
David Pritchett
Donald Sharon
Ronald Schreiber
David Smith
Robin Whiting
Krystal Wolfe
Sharrel Wyatt

To: Judge Cadei and the Residents of the City of Sacramento:

From: Rosemary Kelley, 2009-2010 Grand Jury Foreperson

By law, grand juries issue a report at the end of their terms in June covering the issues investigated during its tenure. This year the Sacramento County Grand Jury is issuing this report early to call public attention to the question of whether the City of Sacramento is complying with the law.

Proposition 218 was passed by the voters to ensure that a municipality did not shift the cost of providing services from its general fund to utility ratepayers. When these costs are shifted, taxpayers may be deprived of their rights to vote on which services they are willing to pay for and ratepayers may be charged more than the cost of providing utility services. City of Sacramento officials were warned that these practices might be occurring in Sacramento and that Sacramento may not be complying with the law. Other cities throughout California have been sued for their failure to comply, and they have frequently lost

This report deals with the question of Sacramento's compliance, or lack of compliance, with Proposition 218 and the related question of what officials did to comply with the law so that Sacramento would not join the list of cities that have been sued. The Grand Jury found that, at best, the City has not done enough to determine whether the city is violating the law and, at worst, has shifted millions of dollars in costs from the general fund to utility enterprise funds. Sacramento has officials and staff who are supposed to be conversant with the law and to follow it. The City has a staff of attorneys which is supposed to advise it on legal matters. A consultant has advised on ways to correct any violations. Yet there has been a failure to act.

This report recommends a number of actions that should be taken by the City as soon as possible to determine whether the City is complying with Proposition 218 and whether City officials have acted appropriately.

Sincerely,

ROSEMARY KELLEY, Foreperson
2009-2010 Sacramento County Grand Jury
RK/bc

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The City of Sacramento and Proposition 218

The Law Is the Law

1.0 Summary

This investigation began with a complaint that the City of Sacramento is violating sections of the State Constitution regulating the use of utility enterprise funds.¹ The complaint also alleges that efforts to determine the truth of the matter and make corrections met with resistance from top city management. In its investigation, the grand jury interviewed numerous city officials and reviewed relevant city contracts, agreements, memoranda and reports. The Grand Jury also reviewed judicial decisions from other California jurisdictions.

Based upon the evidence, the grand jury finds that revenue from utility ratepayers is being used improperly to subsidize general government activities. This practice has continued for several years. At the very least, these subsidies are of questionable legality under Proposition 218.²

Further, the grand jury finds a disturbing pattern of management failures and the absence of accountability at the highest levels of city government. The city's top management has failed to fully identify and to correct questionable uses of ratepayer funds. These city officials contend that the city's practices are not abuses of Proposition 218 until the city attorney issues an opinion that they are. Sworn testimony from multiple sources reveals that the city manager and his subordinates have suppressed a 44-page report that analyzed the potential costs of Proposition 218 noncompliance. Some members of city council testified that they do not remember receiving that report, which was sent to each council member in July 2008. As much as \$5 million is being illegally transferred from Department of Utilities (DOU) enterprise funds to the city's general fund each year.

Based on the facts discovered and the findings drawn from this investigation, the grand jury recommends that the city council take immediate steps to identify and correct practices that do not comply with Proposition 218 and establish a meaningful time frame for compliance. The grand jury urges the city council to convey to senior staff, and to the public, the council's expectations regarding accountability, transparency in government, and compliance with the Constitution of California. The people of Sacramento deserve nothing less from their public servants.

¹ In government accounting, a fund that provides goods or services to the public for a fee that makes the entity self-supporting.

² See Appendix A.

2.0 Foreword

As a local government within Sacramento County, the City of Sacramento is within the oversight jurisdiction of the Sacramento County Grand Jury. The focus of this investigation is the city's use of revenue it receives from consumers of utility services ("ratepayers"), and whether particular uses violate California law. In July 2009, the grand jury received a complaint that the city is in violation of the California State Constitution, Articles XIII C and XIII D, commonly known as Proposition 218.

California voters passed Proposition 218 on November 5, 1996. Called the "Right to Vote on Taxes Act," the proposition addresses a wide range of issues relating to raising and spending public funds. The scope of this report is limited to the Proposition 218 requirements that cities cannot charge ratepayers more than the cost of providing utility services, nor can they use revenue from ratepayers for non-utility purposes. The intent of these requirements is to prevent cities from overcharging ratepayers for utility services, and using the surplus funds for other city purposes.³

The scope of the investigation is also limited to only a few of the city's potential violations. Specifically, the grand jury looked at apparent ratepayer subsidies of parks, recreation, litter removal, and economic development. Although activities such as these serve legitimate governmental purposes, since 1997 the State Constitution has required that they be funded by non-utility revenue sources. In approving Proposition 218, California voters directed that general government activities shall not be funded with money received as payment for delivery of water, sewer, drainage, or solid waste services.

3.0 Issues

During the fact-finding stage of its work, the grand jury identified issues that came up repeatedly. Several issues which could be examined within the available time and resources of the grand jury were selected for further investigation.

1. Has the City of Sacramento violated the State Constitution as modified by Proposition 218 and, if so, are the violations continuing?
 - a. Is it a violation of Proposition 218 for the Department of Utilities (DOU) to provide utility services (i.e., water, sewer, drainage or solid waste disposal) to other departments of city government at reduced rates or for free?

³ "Understanding Proposition 218", Legislative Analyst's Office, December 1996. Available at: http://www.lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html

- b. Is it a violation of Proposition 218 for ratepayer funds to be used for government activities that are unrelated to utility services?
 - c. Is it a violation of Proposition 218 to use ratepayer funds for capital outlays to benefit new private development?
 - d. Is it a violation of Proposition 218 to use ratepayer garbage collection funds to pay for collecting litter after special events or clearing illegally dumped debris?
2. Did the city manager and/or other senior officials fail to advise the mayor and city council of these issues and fail to recommend ways to rectify possible violations?
 3. Have the city manager, mayor, and city council taken steps to ensure that the city is in compliance with Proposition 218?
 4. Have city officials acted to avoid disclosure of the city's potential noncompliance?

4.0 Method of Investigation

In the course of this investigation the grand jury conducted 15 interviews. The grand jury took sworn testimony from a number of city officials with management and/or citywide responsibilities.

Notable among the many documents examined by the grand jury are the following:

1. The text of Proposition 218, Articles XIIC and XIID of the California State Constitution.
2. Proposition 218: Local Agency Guidelines for Compliance, Association of California Water Agencies, 2007.
3. Howard Jarvis Taxpayers Association v City of Fresno, 127 Cal. App. 4th 914 (2005) (March 23, 2005).
4. Bighorn-Desert View Water Agency v Verjil, 120 Cal. App. 4th 890 (2006), California Supreme Court S127535 (July 24, 2006).
5. Summary of Utility Services Costs Relevant to Proposition 218, [Consultant's] Draft Report, May 2008, 44p.
6. "Interdepartmental Memorandum of Understanding for Phasing in Full Volumetric Water Rates," agreement between DOU and the Department of Parks and Recreation, April 29, 2009, 4p.

7. City of Los Angeles v All Persons Interested, Statement of Decision, Superior Court of Los Angeles, March 25, 2009.
8. “Understanding Proposition 218,” Legislative Analyst’s Office, December 1996, 25p.
9. Joseph Schofield, “A Clash of Equities: Proposition 218 Squares off against Tiered Water Pricing,” California Water Law & Policy Reporter, December 2007, p67.
10. Great Oaks Water Company v Santa Clara Valley Water District, Statement of Decision, Santa Clara County Superior Court, November 30, 2009.

5.0 Background and Facts

5.1 The Voters -- Proposition 218

More than 30 years ago California voters approved Proposition 13, which imposed severe restrictions on local governing bodies’ ability to increase property taxes, their most important source of revenue. Subsequently, many cities and counties began to rely on other revenue sources such as assessments, fees related to property, and general purpose taxes on business licenses, hotel occupancy, and utility users. Increases in these revenue sources were not subject to voter approval. Over the next 18 years, opposition to steady increases in these taxes and fees led to voter approval of Proposition 218, which makes it much more difficult for local governments to increase revenue, and forbids the use of property-related fees for general government services.

Proposition 218 shifted powers over taxation and revenue to residents and property owners, and away from local governing bodies. Elected officials found themselves in the difficult position of being responsible for spending, but with extremely limited authority to raise funds. Some local governing boards solved their dilemma by looking the other way. They simply ignored the constraints imposed by Proposition 218. In the 13 years since Proposition 218 was enacted, a number of lawsuits have been brought against local governments for failure to comply with its requirements. Decisions have generally favored the plaintiffs.

5.2 The City -- Business as Usual

Facts revealed in the grand jury's investigation support the claim that the leadership of the City of Sacramento chose to ignore the law and continues to do so. In 2008 more than 60 potential violations were identified by employees within the Department of Utilities (DOU). Analysis of these practices by an independent consultant found potential violations of Proposition 218 may have already cost Sacramento ratepayers in excess of \$21 million, present worth. The consultant's report also estimates noncompliance may cost ratepayers more than \$5 million in each succeeding year. Grand jury witnesses consistently confirmed the fact that the consultant is a reputable engineering firm.

The following table is taken from the consultant's report.⁴ It does not include \$13.7 million in potential costs that need further clarification.

DEPARTMENT OF UTILITIES SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Fund	Estimated Cost to Date*	Estimated Annual Ongoing Cost
Water	\$8,076,000	\$2,014,000
Sewer	\$28,000	\$7,000
Drainage	\$4,768,000	\$91,000
Solid Waste	\$6,423,000	\$1,933,000
Shared	\$2,434,000	\$1,154,000
Total	\$21,729,000	\$5,199,000

*Present worth cost of one-time items since 1996 and three years of annually recurring items, through May 2008. Present worth is the calculated value of each transaction increased from its date to May 2008 at 5% per year.

⁴ See Appendix B.

The reaction of top city management to this report and to compliance issues brought to its attention over the previous three years is discussed in Section 5.3, below. Following is a brief description of some of the city's programs that benefit from ratepayer subsidies:

1. **Subsidized rates for providing water service to city parks and other city facilities.**

The consultant's study reveals that, on an annual basis, the cost of subsidized water rates for various non-Department of Utilities departments/activities could approach an estimated \$2,006,000. Other water-related services account for another \$8,000. Some additional amounts could not be quantified due to inadequate data, but all of them would increase this number. The Department of Parks and Recreation (DPR) has been a major beneficiary of this subsidy. For many years, DOU has charged DPR a significantly discounted rate for water used in city parks. Currently that rate is 15% of the regular metered water rate. Many witnesses testified that they believe this discount violates Proposition 218. In July 2006 the California Supreme Court held that consumption-based water charges are "property-based fees" subject to Proposition 218 requirements.⁵ It was not until April 2009 that DOU and DPR entered into an agreement to bring the rate charged to DPR to the regular metered rate over the following 15 years.

2. **Solid waste disposal services for city facilities and events.** On an ongoing basis, DOU has provided employees and equipment to support general government activities without reimbursement from the general fund. Examples include litter collection after special events and the clearing of illegally dumped debris. The amounts quantified to date total approximately \$28,000 (present worth over a three year period) and \$7,000 projected annually.

3. **Natomas Auto Mall land purchase by DOU.** In 2003 land for the proposed Natomas Auto Mall was purchased with approximately \$2,000,000 from the Drainage Fund. As a result, Drainage Fund set-asides for capital improvements, about \$400,000 per year, have been discontinued for several years. This means that Sacramento's drainage infrastructure has been under-funded annually by that amount. There has been no reimbursement for the purchase, which has an estimated present worth of \$2,553,000. The purchase was authorized by the city council.

4. **Economic Development Capital Improvement Program contribution.** From 2001 until 2009, \$1 million was allocated each year from DOU revenues (Drainage, Water, and Sewer Funds) to pay for utility aspects of development projects in downtown Sacramento "when the project couldn't afford it." In one case, these set-asides from ratepayer funds were used to subsidize infrastructure for a new auto dealership. While not all of the money was used every year, some of it was. The money relieved developers from having to pay their fair share of utility upgrades necessitated by their projects. No audit was

⁵ Bighorn-Desert View Water Agency v Verjil, 39 Cal.4th 205 (July 24, 2006).

performed to determine how the money was actually used or what the developers' fair share would have been.

5. The initial decision to divert DOU funds came from the office of the former city manager. The policy was continued by the present city manager until the FY 2010 budget was being prepared in early 2009. For almost a decade DOU reserves were allowed to dwindle while the aging infrastructure continued to deteriorate.
6. **DOU work on city parks, buildings, and sports facilities.** There are numerous city, business and sports facilities to which DOU provides on-going services without any reimbursement. Examples of these services include work performed by DOU at Camp Sacramento (maintenance and repair), Old Sacramento and city buildings (solid waste removal, recycling), and Arco Arena (drainage maintenance). The cost of these services is reflected in the prices paid by utility ratepayers. The amounts vary but represent significant labor and equipment costs, all of which are factored into the rate-setting calculations.
7. **Other significant issues.** A group of issues described as "requiring further clarification" makes up the largest category of items in the consultant's report, aggregating about \$13.7 million (present worth over three years).

It is helpful to consider the City of Sacramento's practices in the context of information available to its leaders during the period from mid-2005 to the present. Superior courts in Roseville (2002) and Fresno (2005) decided in favor of ratepayers and against defendant cities on Proposition 218 issues. The California Supreme Court ruled against the defendant water agency in Bighorn-Desert View Water Agency v. Verjil in July 2006. Barely a month before Sacramento's top management developed its 15-year plan for eliminating the ratepayer subsidy of park water supplies, Los Angeles Superior Court ruled against that city's claim that water service was not subject to Proposition 218.⁶

In 2007 the Association of California Water Agencies published Proposition 218: Local Agency Guidelines for Compliance. The California Water Law & Policy Reporter published feature articles on Proposition 218 in December 2007 and again in November 2008.⁷ Between August 2005 and September 2009 the League of California Cities published at least 20 reports, updates and analyses of Proposition 218.⁸ Despite all this information, the city's management failed to examine its position that none of the city's uses of ratepayer funds could be considered non-compliant unless and until the city attorney issued an opinion to that effect.

⁶ City of Los Angeles v All Persons Interested, Statement of Decision, March 25, 2009.

⁷ California Water Law & Policy Reporter, December 2007, p67, and November 2008, p31.

⁸ See http://www.cacities.org/index.jsp?zone=locc§ion=util&sub_sec=util_sitesearch&app=search.

5.3 The City – Warnings Ignored

As early as 2003, city employees expressed concerns that the city is violating Proposition 218. The issue was discussed with city management for several years. Some of these concerns included reduced water rates for parks, spending ratepayer funds for general city services, and allocating \$1 million to subsidize economic development. City officials repeatedly responded that nothing could be done without an opinion from the city attorney.

A consultant was hired by DOU in 2008 to review departmental data and estimate the amount of money involved. Employees identified 62 areas of potential noncompliance. In May 2008 the consultant's draft report was delivered for review by city staff.

When the city manager received the report, he ordered that all copies be collected and that none of the report's information be given to the city council. The city manager ordered a work plan be prepared to address the alleged noncompliance with Proposition 218. On May 30, a work plan was submitted to the city manager.⁹ The requested work plan was never implemented.

The consultant's contract was terminated. The consultant was paid \$25,000 and no final report was ever prepared. There was no further effort to determine if the city was violating Proposition 218 or the cost of noncompliance. City officials testified that although questions had been raised about whether DOU was violating Proposition 218, they could not do anything unless the city attorney issued an opinion. As of October 16, 2009, city officials had not received a legal opinion.

In July 2008 members of the city council received copies of the consultant's report with an explanatory cover letter.¹⁰ Neither the city manager nor the new director of DOU took any action as a result. There was no discussion or acknowledgement of these documents or any Proposition 218 compliance issue in regular council sessions.

Proposition 218 issues have not been discussed in regular management meetings for at least a year, but there have been numerous small group conversations about these issues involving city management. Every witness agreed on the need for clarity and resolution of Proposition 218 issues. Some assumed these issues were being resolved and that the city manager and the city attorney were doing the right thing. Several witnesses had severe memory lapses about any event, meeting, discussion, or document relating to Proposition 218 noncompliance.

Several city officials saw the report which projected a potential loss to utility ratepayers from Proposition 218 violations of about \$5 million annually. Although this is a "significant" amount of money, they took no action because the city attorney had not advised them on the

⁹ See Appendix C.

¹⁰ See Appendix D.

issue. Several city officials saw a work plan to correct potential violations. Nothing was done to implement the work plan, again with the excuse that there was no city attorney's opinion.

A consistent theme in testimony to the grand jury was that key policymakers passed the blame for failure to act on Proposition 218 compliance issues to someone else. Some witnesses used the excuse that the city had other, more important, problems than Proposition 218 compliance, which they perceived as a minor infraction of the law at most.

6.0 Findings and Recommendations

Finding 1.0 Based on data supplied by city employees, a consultant's draft report estimated that the city's annual cost of potential violations is more than \$5 million. The present worth cost of one-time projects and recurring costs over the last three years is in excess of \$21 million. The mayor and members of city council received copies of this report in July 2008. No action was taken.

Recommendation 1.1 The city council should disclose the entire consultant's report to the public.

Recommendation 1.2 The city council should explain why it took no action.

Recommendation 1.3 The city council should acquire outside legal counsel and technical experts to advise the city council on the legality of the uses of utility revenues for each of the practices listed in the consultant's report.

Finding 2.0 Once the city manager and the assistant city manager over the Department of Utilities (DOU) learned that there were potential and substantial Proposition 218 violations, they had a duty to pursue the issue and determine the existence and extent of any actual violations. They failed their duty.

Recommendation 2.1 The city council should admonish the city manager and the responsible assistant city manager for this failure.

Finding 3.0 For years DOU has supplied water to city parks at a reduced rate of only 15 % of the usual rate of providing water to other metered users.¹¹ The grand jury is of the opinion that this is a violation of Proposition 218, which limits fees or charges to ratepayers for property related services. Providing water at reduced rates to the Department of Parks and Recreation (DPR) is not a property related service to ratepayers. The April 2009 agreement between DOU and DPR provides for this violation to be corrected over a 15 year period. The grand jury finds this timeline to be too lengthy.

¹¹ In Bighorn-Desert View Water Agency (2006), the California Supreme Court held that consumption based rates are "fees" or charges" for property related services and are subject to Propositions 218.

Recommendation 3.1 The city council should modify this agreement and direct that DPR begin paying the comparable full metered rate in FY 2012.

Finding 4.0 The city has shifted the cost of providing city services from the general fund to the enterprise funds of DOU. The city improperly uses DOU labor and equipment, without reimbursement, to provide services to other city departments, sports facilities and city buildings.

Recommendation 4.1 If the advice of outside counsel confirms these violations, the city council should direct that DOU enterprise funds be reimbursed for future services from non-ratepayer funds.

Finding 5.0 For the last several years DOU was directed to allocate \$1 million to pay for capital improvements related to private economic development projects. The city dropped the allocation from the FY 2010 budget.

Recommendation 5.1 The city council should get an outside legal opinion concerning this practice.

Finding 6.0 The grand jury found a lack of accountability, absence of transparency and failure of responsibility by individuals who hold positions of public trust in Sacramento City government.

Recommendation 6.1 The city council should clarify, in writing, its expectations regarding compliance with all laws and convey this policy statement to city staff and to the public.

7.0 Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by April 6, 2010, from:

- **The Sacramento City Council**
- **The Mayor of the City of Sacramento**
- **The City Manager of Sacramento**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

8.0 Appendices

Appendix A -- California Constitution, Article XIII D, SEC. 6 (b), (1)-(5). The full text of Proposition 218 is available at:
[http://www.lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html#appendix II](http://www.lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html#appendixII)

Appendix B -- Summary of Utility Services Costs Relevant to Proposition 218, [Consultant's] Draft Report, May 2008.

Appendix C -- Memorandum, Proposition 218 Proposed Work Plan, May 30, 2008.

Appendix D -- Letter to the Mayor and Council Members, July 1, 2008.

Appendix A

Pertinent Sections of

California State Proposition 218

Appendix A
Pertinent Sections of
California State Proposition 218¹²

SEC. 6.2(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

¹² http://www.lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html#appendixII

Appendix B

Executive Summary of the Consultant's Report

**SUMMARY OF UTILITY SERVICES COSTS
RELEVANT TO PROPOSITION 218**

**DRAFT
MAY 2008**

SECTION 1 EXECUTIVE SUMMARY

1.1 INTRODUCTION

Proposition 218 places specific requirements on fees or charges imposed for property-related services, such as services provided by the City of Sacramento (City) Department of Utilities (DOU). Proposition 218 places restrictions on how rate revenue can be spent, as well as how the cost of services is allocated among ratepayers, specifically:

1. Revenues derived from the fee or charge must not exceed the funds required to provide the property-related service (Section 6(b)(1)). [1]
2. Revenues from the fee or charge must not be used for any purpose other than that for which the fee or charge is imposed (Section 6(b)(2)). [1]
3. No fee or charge may be imposed for general governmental services, such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners (Section 6(b)(5)). [1]
4. The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel (Section 6(b)(3)). [1]
5. The fee or charge may not be imposed for service, unless the service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Stand-by charges must be classified as assessments and must not be imposed without compliance with the proportionality requirements for assessments. (Section (b)(4)). [1]

DOU has identified several activities that may not be in compliance with Proposition 218. This report lists these identified activities, status of the activity, and estimates a cost to DOU when possible. Costs provided in this report are order of magnitude costs, and are intended to give an indication as to the financial scale of activities that are potentially noncompliant with Proposition 218.

DOU identified items that, based on its interpretation of the law (California Constitution Articles XIII C and XIII D) [REDACTED] with Proposition 218. [REDACTED]

[REDACTED] These items are summarized below in Sections 1.2.1 through 1.2.5, and described in more

detail in Sections 2 through 6. Additional items with some level of uncertainty as to Proposition 218 compliance are summarized in Section 1.2.6 and described in more detail in Section 7. [REDACTED]

[REDACTED] This report does not provide an opinion regarding compliance with Proposition 218.

1.2 SUMMARY

DOU consists of five divisions: Engineering Services, Plant Services, Field Services, Business Services, and Solid Waste Services. Activities performed by these divisions are paid for with money from four funds: Water, Sewer, Drainage, and Solid Waste. Items that may not be compliant with Proposition 218 are summarized by fund in Sections 1.2.1 through 1.2.4. Items whose cost is shared by multiple funds are summarized in Section 1.2.5. Items requiring further legal clarification are summarized in Section 1.2.6.

A cost is associated with each item, when possible. A summary of DOU costs that may not be compliant with Proposition 218 is provided in Table 1-1. The cost of items requiring [REDACTED] legal clarification is not included in Table 1-1.

The frequency of the activity was identified in the summary tables with one of the following labels:

1. One Time – describes a single expenditure item, such as the purchase of property.
2. Annual – describes a recurring item with a relatively consistent cost from year to year, such as power bills.
3. As Needed – describes a recurring item not performed on a regular basis, or with a variable level of effort, such as equipment repair.

Because of schedule constraints, a detailed economic analysis was not performed of each item. Cost to date and annual ongoing cost were estimated for each item when sufficient information was available. When sufficient information was available at the time of writing, a present worth cost was determined assuming an interest rate of five percent. For consistency, the present worth cost of items with a recurring cost only account for the costs for the last three years. Several items discussed within this report had associated recurring costs that may not be compliant with Proposition 218 for longer than three years. When an item had recurring costs for a period less than three years, the present worth cost was calculated for the actual time that costs were incurred. This period of time is noted in the item description. Costs were identified with the following labels:

1. PW – describes the present worth of the cost assuming an interest rate of five percent.
2. E – describes a cost when insufficient information was available to calculate the present worth.

3. ET-X – describes a cost for a given period of time when insufficient information was available to calculate the present worth. For example a cost of \$4,000 labeled ET-2 would indicate a cost of \$4,000 over a two year period.

When sufficient information was not available, the cost was listed as “Unknown”.

As seen in Table 1-1, DOU is estimated to have spent approximately \$21,729,000 to date on items that may not be compliant with Proposition 218. The cost to date includes the present worth cost of one time items since 1996 and three years of annually recurring items. A recurring annual cost of approximately \$5,199,000 per year is estimated to be spent by DOU on items that may not be compliant with Proposition 218. Because the cost of several items could not be estimated as part of this study, the actual cost of items that may not be compliant with Proposition 218 is likely higher than stated in this report. It is assumed that it will be the responsibility of the City Attorney and/or others to determine the Proposition 218 compliance of each item discussed in this report.

TABLE 1-1
DEPARTMENT OF UTILITIES
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Fund	Estimated Cost To Date ^a	Estimated Annual Ongoing Cost
Water	\$8,076,000	\$2,014,000
Sewer	\$28,000	\$7,000
Drainage	\$4,768,000	\$91,000
Solid Waste	\$6,423,000	\$1,933,000
Shared	\$2,434,000	\$1,154,000
Total	\$21,729,000	\$5,199,000

^a Through May 2008.

In addition to items where costs are identified in Table 1-1, DOU has identified several items that require [REDACTED] legal clarification to determine Proposition 218 compliance. The estimated cost to date of items requiring clarification is \$13,673,000. The estimated annual ongoing cost of items requiring clarification is \$2,954,000 per year. The costs of items requiring [REDACTED] legal clarification were not included in Table 1-1, but are summarized in Table 1-7.

1.2.1 Water Fund

The costs of items related to the Water Fund that may not be compliant with Proposition 218 are listed in Table 1-2. A more detailed description of each item is provided in Section 2, Water Fund Costs Relevant to Proposition 218. The total estimated cost to date of items related to the Water Fund is \$8,076,000. The estimated annual ongoing cost of Water Fund items is \$2,014,000 per year.

TABLE 1-2
WATER FUND
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Frequency ^a	Estimated Cost To Date ^b		Estimated Annual Ongoing Cost
Bill Conlin Youth Sports Complex	One Time	\$2,000,000	E	\$0
911 Center Building at SRWTP	Annual	Unknown	-	Unknown
Baseball Fields at Fairburn Water Treatment Plant	Annual	Unknown	-	Unknown
Pool Chlorination Support	One Time	\$11,000	PW	\$0
Granite Park Well Plan Review	One Time	\$5,000	PW	\$0
State Tower at SRWTP	Annual	Unknown	-	Unknown
Well 137	One Time	\$4,000	E	\$0
Alhambra Reservoir Site	Annual	Unknown	-	Unknown
Ice Rink Storage	Annual	\$7,000	PW	\$2,000
Subsidized Water Rates	Annual	\$6,018,000	PW	\$2,006,000
Chorley Park Repairs	Annual	\$20,000	PW	\$6,000
Thirteenth Street Median Landscaping	One Time	\$8,000	E	\$0
Repairs at City Golf Courses	As Needed	Unknown	-	Unknown
Grace Avenue Neighborhood Association Project	One Time	\$3,000	E	\$0
City Parcels Not Billed For Water Service	Annual	Unknown	-	Unknown
Total		\$8,076,000		\$2,014,000

^a "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^b Through May 2008, "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

1.2.2 Sewer Fund

The costs of items related to the Sewer Fund that may not be compliant with Proposition 218 are listed in Table 1-3. A more detailed description of each item is provided in Section 3, Sewer Fund Costs Relevant to Proposition 218. The total estimated cost to date of items related to the Sewer Fund is \$28,000. The estimated ongoing annual cost of Sewer Fund items is \$7,000 per year.

TABLE 1-3
SEWER FUND
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Frequency ^a	Estimated Cost To Date ^b		Estimated Annual Ongoing Cost
Pioneer Reservoir Relocation Study	As Needed	\$5,000	E	Unknown
Camp Sacramento Septic Pumping	Annual	\$4,000	PW	\$1,000
Sacramento Zoo Sewer and Drainage Maintenance	Annual	\$19,000	PW	\$6,000
Total		\$28,000		\$7,000

^a "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^b Through May 2008, "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

1.2.3 Drainage Fund

The costs of items related to the Drainage Fund that may not be compliant with Proposition 218 are listed in Table 1-4. A more detailed description of each item is provided in Section 4, Drainage Fund Costs Relevant to Proposition 218. The total estimated cost to date of items related to the Drainage Fund is \$4,768,000. The estimated annual ongoing cost of Drainage Fund items is \$91,000 per year.

TABLE 1-4
DRAINAGE FUND
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Frequency ^a	Estimated Cost To Date ^b		Estimated Annual Ongoing Cost
65 th and Broadway Detention Basin	One Time	\$1,000,000	E	\$0
BERC Funding	Annual	\$189,000	PW	\$60,000
Natomas Automall	One Time	\$2,553,000	PW	\$0
Historic Cemetery Plaque Monument	One Time	\$5,000	E	\$0
Move/Install Gas Vault	One Time	Unknown	-	\$0
Garcia Bend and Miller Park Boat Ramps	Annual	\$2,000	PW	\$700
Southside Park Pond	Annual	\$3,000	PW	\$1,000
Golf Course Drainages	Annual	\$18,000	PW	\$6,000
Bing Maloney Golf Course Drain	One Time	\$17,000	E	\$0
Gold Rush Days	Annual	\$9,000	PW	\$3,000
Crocker Art Museum Sandbags	Annual	\$1,000	PW	\$400
Loan Water Truck to Fire Department	Annual	\$27,000	PW	\$9,000
Parking Lot Drains at Fire Stations	One Time	\$5,000	E	\$0
Roadside Ditch Culvert Cleaning	Annual	\$36,000	PW	\$11,000
Fremont Park Fountain	One Time	\$3,000	E	\$0
Sacramento Executive Airport Utilities	Annual	\$900,000	E	Unknown
Total		\$4,768,000		\$91,000

^a "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^b Through May 2008, "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

^c The estimated cost to date of the dog waste stations is for initial construction. The amount of ongoing costs was not available at the time of writing.

1.2.4 Solid Waste Fund

The costs of items related to the Solid Waste Fund that may not be compliant with Proposition 218 are listed in Table 1-5. A more detailed description of each item is provided in Section 5, Solid Waste Fund Costs Relevant to Proposition 218. The total estimated cost to date of items related to the Solid Waste Fund is \$6,423,000. The estimated annual ongoing cost of Solid Waste Fund items is \$1,933,000 per year.

TABLE 1-5
SOLID WASTE FUND
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Frequency ^a	Estimated Cost To Date ^b		Estimated Annual Ongoing Cost
Billboard Revenue	Annual	Unknown	-	Unknown
28 th Street Landfill Security Guard	Annual	Unknown	-	Unknown
28 th Street Landfill Utilities	Annual	\$460,000	PW	\$153,000
Sutter's Landing Regional Park Feasibility Study	One Time	\$450,000	E	\$0
Solid Waste/Recycling Service to City Facilities	Annual	\$2,805,000	PW	\$935,000
Methane Gas Sales	Annual	\$44,000	PW	\$0
Former Office of Emergency Services Building	Annual	Unknown	-	Unknown
Old City Incinerator Property	Annual	Unknown	-	Unknown
Sacramento Jazz Jubilee	Annual	\$85,000	PW	\$27,000
Illegal Dumping	Annual	\$2,579,000	PW	\$818,000
Total Cost		\$6,423,000		\$1,933,000

^a "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^b Through May 2008. "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

1.2.5 Costs Shared by Multiple Funds

The costs of items that may not be compliant with Proposition 218 whose cost is shared by multiple funds are summarized in Table 1-6. Funds sharing the cost of each item are identified in Table 1-6 with the following labels:

D – Drainage Fund
W – Water Fund
S – Sewer Fund
SW – Solid Waste

A more detailed description of each item is provided in Section 6, Multiple Fund Costs Relevant to Proposition 218. The total estimated cost to date of items related to the Multiple Fund items is \$2,434,000. The estimated annual ongoing cost of multiple fund items is \$1,154,000 per year.

TABLE 1-6
MULTIPLE FUND ITEMS
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Funds Sharing Cost ^a	Frequency ^b	Estimated Cost To Date ^c		Estimated Annual Ongoing Cost
Miscellaneous Unfunded Development Review	D, W, S	As Needed	\$101,000	ET-3	\$39,000
Economic Development CIP Contributions	D, W, S	Annual	\$1,892,000	PW	\$1,000,000
Compliance Sampling and Reporting	D, W	Annual	\$252,000	PW	\$80,000
Rebuild Fire Pumps	D, W, S	As Needed	Unknown	-	Unknown
Fabricate Water Cannons	D, W, S	As Needed	\$500	E	Unknown
Equipment Repair	D, W, S	As Needed	\$4,000 ^d	ET-2	Unknown
Prospective Employee Testing	D, W, S	Annual	\$10,000	PW	\$3,000
Camp Sacramento Maintenance	D, W, S	Annual	\$91,000	PW	\$30,000
Jiboom Street Park	D, W	One Time	\$25,000 ^e	E	\$0
Property near Pioneer Reservoir	D, S	Annual	Unknown	-	Unknown
Arco Arena Drainage	D, W, S	Annual	\$29,000	PW	\$2,000
Tree Planting	D, W, S	One Time	\$29,000	PW	\$0
Bill Inserts	D, W, S, SW	As Needed	Unknown	-	\$0
Total Cost			\$2,434,000		\$1,154,000

^a "D" indicates that the Drainage Fund contributes to the cost of this item, "W" indicates the Water Fund, "S" indicates the Sewer Fund, and "SW" includes the Solid Waste Fund.

^b "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^c Through May 2008. "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

^d Estimated cost to date only accounts for repair of City Department of Transportation asphalt grinder. The repair of other equipment was not available at the time of writing.

^e Estimated cost to date includes funding of the grant study only. The cost of improvements is not available at the time of writing.

1.2.6 Items Requiring [REDACTED] Clarification

DOU staff identified several items that require a legal opinion to determine Proposition 218 compliance. The items requiring clarification are summarized in Table 1-7. A more detailed description of each item is provided in Section 7, Items Requiring Further Clarification Costs Relevant to Proposition 218. The total estimated cost to date of the items requiring further clarification is \$13,673,000. The estimated annual ongoing cost of items requiring further clarification is \$2,954,000. The costs of items identified by DOU that require further clarification are not included in the total estimated cost to date or total estimated annual ongoing cost summarized in Table 1-1.

TABLE 1-7
ITEMS REQUIRING FURTHER CLARIFICATION
SUMMARY OF COSTS RELEVANT TO PROPOSITION 218

Item	Fund ^a	Frequency ^b	Estimated Cost To Date ^c		Estimated Annual Ongoing Cost
NFIP Compliance	D	Annual	\$1,261,000	PW	\$400,000
ADA Compliance	D	Annual	\$788,000	PW	\$0
NPDES Stormwater Program	D	Annual	\$3,153,000	PW	\$1,000,000
Dog Waste Stations	D	Annual ^d	\$10,000	E	Unknown
Creek Week	D	Annual	\$13,000	PW	\$4,000
Remediation and Monitoring Historic Landfill Costs	SW	Annual	\$3,977,000 ^e	E	\$60,000
Solid Waste Authority Franchise Funds	SW	Annual	\$4,471,000	PW	\$1,490,000
Street Sweeping	SW	Annual	Unknown	-	Unknown
Total Cost			\$13,673,000		\$2,954,000

^a "D" indicates that the Drainage Fund contributes to the cost of this item, "W" indicates the Water Fund, "S" indicates the Sewer Fund, and "SW" indicates the Solid Waste Fund.

^b "One Time" describes a single expenditure. "Annual" describes a relatively constant recurring cost. "As Needed" describes recurring cost that is variable.

^c Through May 2008. "PW" describes a present worth cost. "E" describes an estimated cost, typically the cost at the time of the activity. "ET-X" describes a cost over a period of time of X years.

^d The estimated cost to date of the dog waste stations is for initial construction. The amount of ongoing costs was not available at the time of writing.

^e The estimated cost to date of remediating and monitoring historic landfills includes projected costs to remediate the Dellar Landfill.

1.3 REFERENCES

- [1] State of California, *California State Constitution, Article XIID, Section 6.*

Appendix C
Proposition 218 Work Plan



Department of Utilities
Office of the Director

CITY OF SACRAMENTO
CALIFORNIA

1395 35th Avenue
Sacramento, CA 95822-2911
phone (916) 808-1400
fax (916) 808-1497/1498

May 30, 2008

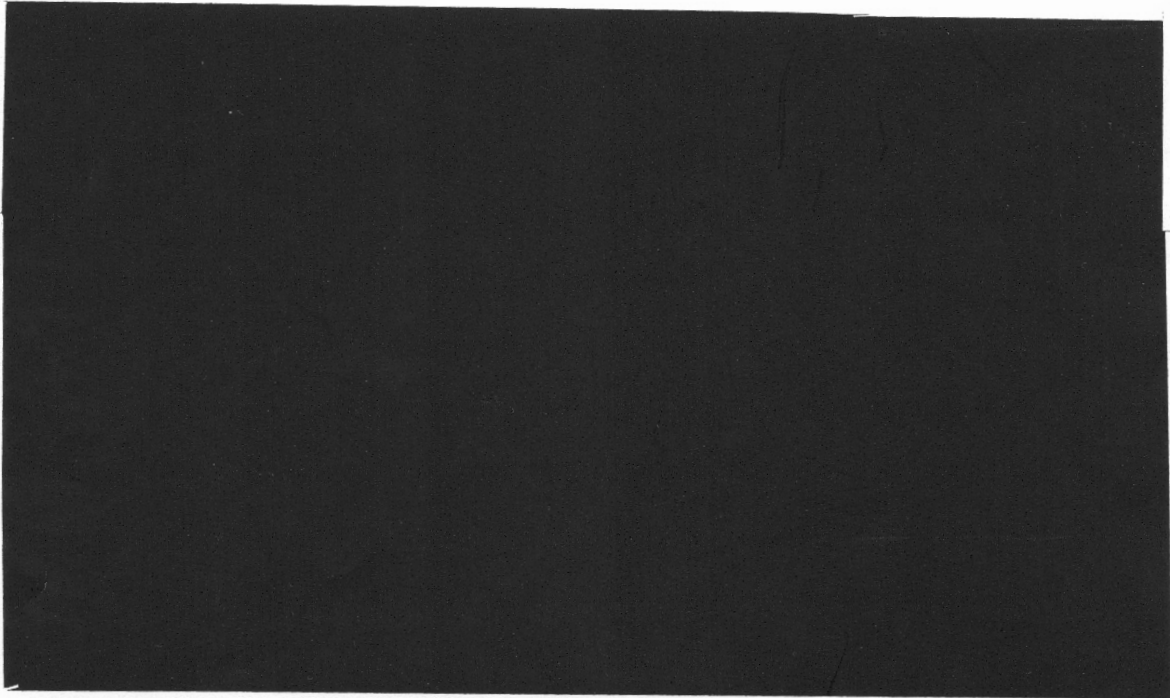
MEMORANDUM

TO:

FROM:

SUBJECT: **Proposition 218 Proposed Work Plan**

Background



CITY OF SACRAMENTO
DEPARTMENT
OF UTILITIES

[REDACTED]

Recommended Work Plan

Audit and Rate Case Analysis

Utilities recommends that the department retain an outside consultant to conduct a complete audit of potentially unallowable costs under the requirements of Proposition 218, based on the City Attorney's review. Once the audit is completed, the total amount of current and past

costs actually not permissible under Proposition 218 would be determined. The consultant would then use this information to compare the unallowable costs with rate and other revenues or in-kind services to determine if the provisions of Proposition 218 are actually being violated, thus creating a rate case analysis.

Use of the City's Internal Auditor is not advised due to the fact that the Auditor has previously declined such an assignment citing a lack of staff and expertise. I believe the audit consultant should work for Utilities, with oversight provided by the recently formed Rate Advisory Commission.


Utilities Budget Actions

Once the audit and rate case analysis is complete, the magnitude of costs, if any, that should be paid for by the general fund, private development, or other agencies can be determined. This may result in a significant change to both the Utilities and general fund budgets. In addition, repayment of past unallowable expenditures could also significantly affect the general fund and Utilities budgets (although there may be a statute of limitation affecting repayment by the general fund and private developers). Such funding could be used to offset operational costs and thus reduce, or eliminate, proposed rate increases; provide additional capital improvement projects for failing infrastructure in water, sewer, and drainage; or to provide some level of contingency funding in solid waste. Unfortunately, additional funding from the general fund would open a new gap in the overall City budget not currently anticipated.

The proposed 2008/09 Utilities budget was prepared without the benefit of the cost analysis in the ████████ report, or a Proposition 218 rate case analysis. The Utilities budget and rate hearing is noticed for June 10. Given the time frame, it is impossible to allow for review by the City Attorney, conduct an audit and rate case analysis, then potentially modify the department budget. Alternately, to stop providing services to general funded departments is not feasible since to do so would have a very detrimental effect on the City and public health and safety. However, continuing practices which may not be permissible under Proposition 218 without taking steps to address the potential problems would be questionable.

Trying to balance these competing issues from a practical perspective, Utilities recommends that the proposed work plan be initiated as soon as possible, and that staff request that the City Council approve the proposed Utilities budget, and the rate increases needed, to maintain existing service levels. Utilities also recommends that the City Council be informed, at an appropriate time, that information indicates that possible discrepancies under Proposition 218 may exist, and that, in response, a work plan consisting of City Attorney review, an audit, and completion of a rate case analysis is being initiated. A preliminary schedule could also be presented.

In addition, producing a rate case analysis will likely take a substantial length of time, will involve a large number of individuals, and require a significant amount of effort. Although

 Memorandum
Proposition 218 Proposed Work Plan
May 30, 2008
Page 4

there is a concern that providing information about possible discrepancies with Proposition 218 could cause unwarranted reactions by other parties (before the processes described above provide a higher level of documentation and confirmation), in my opinion, it would be prudent to explain the process, and why the process is being initiated, to the newly formed Rate Advisory Commission.

Conclusion

I believe that implementation of the proposed work plan will best serve the interests of the City and its ratepayers. I am prepared to provide whatever assistance I can in fully addressing and resolving the issues discussed in this memorandum.

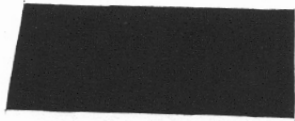
Attachments

cc:



Appendix D
Letter to City Council

July 1, 2008

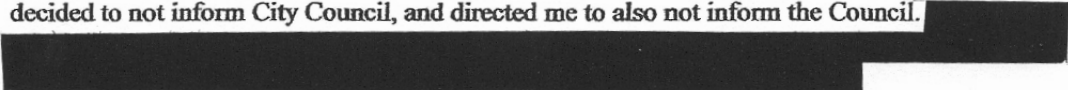


Mayor and City Council Members
City Hall
915 I Street
Sacramento, CA 94814

Dear Mayor and Council Members:

I am writing this letter to inform the City Council of potential concerns regarding the City's compliance with Proposition 218. Attached is a memorandum report which indicates that the City may be violating the provisions of Proposition 218. Although a rate case analysis is necessary to conclusively determine if this is the case, if so, millions of dollars of Utilities funds are potentially being used to subsidize the general fund. In addition, tens of millions of dollars may have been used over the past 12 years since Proposition 218 became law to subsidize the general fund and private developers.

At a meeting on May 28, I provided this information to the City Manager. I strongly recommended that the City Manager inform the City Council of this information before the Council adopted the proposed Utilities 2008/09 budget and rate increases. The City Manager decided to not inform City Council, and directed me to also not inform the Council.



After a great deal of consideration, I have decided to provide Council the attached report due to the concern that, as elected officials, you are being asked to make decisions without having complete information to do so. I believe providing this information to you is in the best interest of the City and its ratepayers, and, simply, the right thing to do.

Sincerely,



**Sacramento City Council Responses to
The 2009-2010 Sacramento County Grand Jury Report:**

The City of Sacramento and Proposition 218

The Law is the Law

Including the Sacramento County Grand Jury Responses

Findings, recommendations, the city council's responses and the grand jury's responses are shown below:

Finding 1.0 *Based on data supplied by city employees, a consultant's draft report estimated that the city's annual cost of potential violations is more than \$5 million. The present worth cost of one-time projects and recurring costs over the last three years is in excess of \$21 million. The mayor and members of city council received copies of this report in July 2008. No action was taken.*

Response: The City disagrees in part with this finding. The referenced engineering consultant was retained to review cost data associated with various practices identified by City staff, and prepared and submitted a draft report in May of 2008 quantifying the cost associated with these practices. However, the analysis provided in the draft report consisted solely of cost estimating. The draft report expressly stated that it was not intended to provide an opinion regarding compliance with Proposition 218, and for this reason the various cost estimates in the consultant's draft report were not necessarily indicative of any actual violations of Proposition 218. To the extent that this finding suggests otherwise, the City disagrees. In addition, actions were taken after the consultant's draft report was received, as noted in the response to Recommendation 1.2, below.

Grand Jury Response: *The grand jury disagrees with the city's response. There was more than adequate information available to the city manager and the city council to warrant greater action than was taken.*

Recommendation 1.1 *The city council should disclose the entire consultant's report to the public.*

Response: The entire consultant's draft report, with minor redactions of privileged and confidential matter, has been publicly disclosed.

Grand Jury Response: *The grand jury is satisfied that the draft report was released, but the city did not publicize the procedure for obtaining a copy. It was later learned that a citizen must request a copy from the city attorney.*

Recommendation 1.2 *The city council should explain why it took no action.*

Response: In August of 2008, the City Council was advised by the City Manager that staff was working with the City Attorney's Office to review the consultant's draft report and, after this review was complete, staff would follow up with a full report to the Mayor and City Council. A status report was brought to City Council in January 2010. During this time, Department of Utilities' staff (1) reviewed the various practices identified in the consultant's draft report in consultation with the City Attorney's Office, (2) conducted internal audits and reviewed policies and procedures to identify potential Proposition 218 issues, and (3) took action to eliminate or reduce the scope of many potential ongoing

Proposition 218 violations, including the following:

In April 2009, the Department of Utilities and Department of Parks and Recreation agreed to a phased approach to incrementally eliminate the reduced volumetric water rate charged for water supplied to City parks over a 15 year period.

- In addition, beginning July 1, 2009, the non-volumetric fixed service charges paid for metered water service, including metered water service to City parks, was significantly increased.
- Beginning July 1, 2009, the Department of Utilities: (1) ceased providing any solid waste services for special events without reimbursement for its service costs; (2) ceased further contributions to the economic development capital improvement program used to fund utility infrastructure; and (3) ceased the use of its personnel or equipment to perform work for non-Utility facilities without receiving full cost reimbursement either in funds or through trade of in-kind services.

With respect to the City's use of Drainage Funds to partially fund the purchase of the "Natomas Auto Mall" property referenced in the Grand Jury report, in 2005 the City exchanged this property for vacant real property located southeast of the intersection of Interstate 80 and Truxel Road. The property currently owned by the City is and will continue to be held as an asset of the Drainage Fund, and if the property is sold in the future, the sale proceeds will be used to reimburse the Drainage Fund.

Grand Jury Response: *The grand jury is satisfied with the city's response.*

Recommendation 1.3 *The city council should acquire outside legal counsel and technical experts to advise the city council on the legality of the uses of utility revenues for each of the practices listed in the consultant's report.*

Response: City staff has reviewed the various practices. identified in the consultant's draft report in consultation with the City Attorney's Office, and those practices deemed to present potential ongoing Proposition 218 violations have either been eliminated or City staff is recommending a plan to eliminate them. This option is therefore unnecessary and will not be implemented at this time.

Grand Jury Response: *The grand jury still recommends that the city obtain outside legal counsel concerning the use of utility revenues. The city attorney did not adequately advise the city manager and the city council in the past concerning Proposition 218 and, in fact, was not cooperative with the grand jury during this investigation.*

Finding 2.0 *Once the city manager and the assistant city manager over the Department of Utilities (DOU) learned that there were potential and substantial Proposition 218 violations, they had a duty to pursue the issue and determine the existence and extent of any actual violations. They failed their duty.*

Response: The City disagrees with this finding. As noted in the response to Recommendation 1.2, above, City staff took a number of actions to either eliminate or reduce the scope of potential ongoing Proposition 218 violations after the consultant's draft report was received.

Grand Jury Response: *The grand jury disagrees with this response. Adequate action to stop violating the state constitution was not taken in a timely manner.*

Recommendation 2.1 *The city council should admonish the city manager and the responsible assistant city manager for this failure.*

Response: During the City Council's January 26, 2010, public meeting, City staff presented a written report to the City Council concerning the Grand Jury report and Proposition 218 issues, as well as verbal presentations by the City Manager and the Director of Utilities. At this meeting, City Councilmembers publicly admonished staff and directed them to move forward to address these issues.

Grand Jury Response: *The city manager and his staff were admonished in a public city council meeting but NO action was taken against the city attorney, who in the grand jury's opinion was equally if not more culpable for not bringing the issue to the city council. One of the city attorney's primary responsibilities is to advise the city council when illegal acts are being taken by the city. The grand jury found no evidence the city attorney performed this duty. It is recommended the city attorney be admonished by the city council. Additionally, the grand jury recommends the city attorney provide the city council a list and summary of all legal opinions issued on a monthly basis.*

Finding 3.0 *For years DOU has supplied water to city parks at a reduced rate of only 15% of the usual rate of providing water to other metered users. The grand jury is of the opinion that this is a violation of Proposition 218, which limits fees or charges to ratepayers for property related services. Providing water at reduced rates to the Department of Parks and Recreation (DPR) is not a property related service to ratepayers. The April 2009 agreement between DOU and DPR provides for this violation to be corrected over a 15 year period. The grand jury finds this timeline to be too lengthy.*

Response: The City disagrees in part with this finding. City staff undertook this phased approach to lessen the significant general fund impact of increasing the Department of Parks and Recreation's annual water costs, and as of July 1, 2009, the annual amount paid for water by the Department of Parks and Recreation has already been significantly increased. Given these circumstances and the

City's ongoing and significant general fund deficits, the City does not find this timeline to be too lengthy.

Grand Jury Response: *The grand jury understands the risk to the public parks; nonetheless the grand jury continues to think 15 years is too long.*

Recommendation 3.1 *The city council should modify this agreement and direct that DPR begin paying the comparable full metered rate in FY 2012.*

Response: See response to Finding 3, above.

Finding 4.0 *The city has shifted the cost of providing city services from the general fund to the enterprise funds of DOU. The city improperly uses DOU labor and equipment, without reimbursement, to provide services to other city departments, sports facilities and city buildings.*

Response: The City agrees with this finding, with the clarification that beginning July 1, 2009, the Department of Utilities ceased the use of its personnel or equipment to perform work for non-Utility facilities without receiving full cost reimbursement either in funds or through trade of in-kind services.

Grand Jury Response: *The grand jury agrees with this response.*

Recommendation 4.1 *If the advice of outside counsel confirms these violations, the city council should direct that DOU enterprise funds be reimbursed for future services from non-ratepayer funds.*

Response: As noted in the response to Finding 4.0, above, beginning July 1, 2009, the Department of Utilities ceased the use of its personnel or equipment to perform work for non-Utility facilities without receiving full cost reimbursement either in funds or through trade of in-kind services.

Grand Jury Response: *The grand jury agrees with this response but continues to believe that outside legal counsel should be obtained.*

Finding 5.0 *For the last several years DOU was directed to allocate \$1 million to pay for capital improvements related to private economic development projects. The city dropped the allocation from the FY 2010 budget.*

Response: The City agrees with this finding, with three clarifications: (1) the funding was used for public utility infrastructure, (2) the referenced allocation of \$1 million was not necessarily an annual contribution of this amount, because in any given fiscal year if allocations for specified utility infrastructure projects were not fully expended or encumbered, the unspent/unencumbered balances were returned to the applicable Utilities funds; and (3) the funding was discontinued beginning July 1, 2009 due to budgetary considerations.

Grand Jury Response: *The grand jury is satisfied with this response.*

Recommendation 5.1 *The city council should get an outside legal opinion concerning this practice.*

Response: As noted in the response to Finding 5.0, above, for budgetary purposes the Department of Utilities has discontinued its contributions to the economic development capital improvement program used to fund utility infrastructure. Therefore, an outside legal opinion is unnecessary.

Grand Jury Response: *The grand jury agrees with this response.*

Finding 6.0 *The grand jury found a lack of accountability, absence of transparency and failure of responsibility by individuals who hold positions of public trust in Sacramento City government.*

Response: The City disagrees with this finding. City staff has been working to resolve the issues identified in the Grand Jury report as noted in the response to Recommendation 1.2, above, and will continue to do so. The City Council has directed staff to provide regular updates to ensure greater transparency in the future.

Grand Jury Response: *The grand jury agrees the city council has directed the city manager to be more transparent, but has not seen any evidence the city council itself is becoming more transparent and open with the citizens of Sacramento.*

Recommendation 6.1 *The city council should clarify, in writing, its expectations regarding compliance with all laws and convey this policy statement to city staff and to the public.*

Response: The City Council expects the City and City staff to comply with all laws. This written response makes that clear to City staff and the public.

Grand Jury Response: *The grand jury agrees with this response.*



Sacramento County

GRAND JURY



Rosemary Kelley
Rudolph Castro
Michael Chakerian
Honoruth Corbett
Laverne Cord
Odette Ebersole
Lyle Hoag
Jerry Jagers
Elizabeth Knopf
Philip Milano Jr.
James Monteton
David Pritchett
Donald Sharon
Ronald Schreiber
David Smith
Robin Whiting
Krystal Wolfe
Sharrel Wyatt
Gary Ziegenfuss

Dear Judge Cadei and Residents of Sacramento County:

By law, grand juries issue a final report at the end of their terms covering issues investigated during its tenure. This year the Sacramento County Grand Jury is issuing this report early to call public attention to its serious concern whether the Rio Linda Elverta Community Water District ("RLECWD" or "District") can provide its customers with sufficient and safe water. All citizens should have continuous access to safe, palatable water and enough water to fight fires. Unfortunately if you live in the RLECWD you do not have that access.

Over the last nine months, the grand jury has received many complaints about problems in RLECWD. These echo similar complaints made for many years to earlier grand juries, public agencies and the media. In 2007, the State of California weighed in when the California Department of Public Health issued a Compliance Order requiring the District to correct water deficiencies. The complaints and Order appear to have fallen on deaf ears since no significant improvements have been made. In December 2009, the state issued a second compliance order directing RLECWD to make specific corrections.

Based upon its investigation, the grand jury has little hope that RLECWD will be able to take the necessary corrective actions without outside help. The conduct of the board of directors has been deplorable. It has wasted taxpayer's dollars at the same time that it has brought disrepute on the District. Management has been ineffective at best. Over and over, the Board of Directors and Management have made a bad situation worse. Since they have failed repeatedly in the past, there is no reason to believe that they will be successful in the future. The only hope for the District is that major changes are enforced.

Sacramento County, the State of California and the Sacramento Local Agency Formation Commission all have some share in the responsibility to provide adequate water service to RLECWD customers. These public bodies need to come to the aid of Rio Linda/Elverta residents. At present, the residents live with risks to their health and safety. Their future could be worse.

Sincerely,

ROSEMARY KELLEY, Foreperson
2009-2010 Sacramento County Grand Jury
RK/bc

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Rio Linda/Elverta Community Water District

A Saga of Mismanagement and Water Problems

Foreword

The Rio Linda/Elverta Community Water District (RLECWD or District)¹³ has been torn by factionalism for many years and now faces an uncertain future. In 2007, the State of California Department of Public Health (CDPH)¹⁴ found that the water supplied by the District failed to meet state standards. Since then the District has made little progress in meeting those standards. Instead, the District has been mired in continual, messy squabbles that cost ratepayers money without supplying them with an additional drop of water. In our society, providing sufficient, safe water is a basic requirement which the District has failed to meet. Moreover, a year ago District auditors raised a question whether it could continue to operate as a viable enterprise. In order to go forward and meet its obligations, both financial and as a supplier of water, the District must make substantial changes.

The RLECWD, a local independent special district within Sacramento County, is within the oversight jurisdiction of the Sacramento County Grand Jury. The major issues for this investigation are the unacceptable condition of the existing water supply system; unreliability and inadequacy of water being provided to users within the District; and the mismanagement by the RLECWD executive staff.

The Sacramento County Grand Jury has received several complaints against the RLECWD concerning the quality of the District's water service and overall financial mismanagement by the board of directors and general managers. The grand jury finds the RLECWD is out of compliance with state water regulations and has been for several years. There are also ongoing problems of an aging water system infrastructure, and the inability to provide adequate water (flow, volume, and pressure) to extinguish fires.

Proper leadership and financial management are lacking within the RLECWD. Various facts and findings from this investigation suggest immediate actions are needed to rectify the water system problems even if it means reorganizing the District, such as joining an adjacent successful water utility.

¹³ See <http://www.rlecwd.com>

¹⁴ See <http://www.cdph.ca.gov>

Issues

During its investigation, the grand jury identified several issues that were raised repeatedly. The following are the specific issues which were examined during the available time and resources of the grand jury.

Does the District provide safe, adequate, and reliable water service?

Has the board of directors financed and implemented critically needed capital improvements?

Has the CDPH enforced the requirements of its two compliance orders issued to the RLECWD?

Have the boards of directors, general managers, and employees been working together in a cooperative manner to provide adequate water service to the community?

Method of Investigation

The grand jury interviewed various Rio Linda citizens, past and present general managers, board members, and the District's certified public accounting firm. Also interviewed were state and regional water managers and engineers regarding service standards of the water utility industry. These professionals also provided water service expectations of other agencies and the public. Members of the grand jury met with senior officers of the Sacramento Metropolitan Fire District (SMFD) who provided information from the fire rating office of the Insurance Services Office (ISO) regarding the RLECWD water service for fire suppression. A senior official of the Sacramento Local Agency Formation Commission (SacLAFCo) was interviewed regarding its responsibilities and powers to assess the adequacy of the service being provided by the RLECWD, and to react to the District's chronic deficiencies.

The grand jury reviewed board minutes, agendas, engineering reports, newspaper articles and other relevant documents. The grand jury reviewed state and local records regarding the formation, purposes, and approved service area of the RLECWD.

CDPH records were researched and a responsible officer of CDPH was interviewed regarding:

1. The status and requirements of the Water Supply Permit (# 3410018) issued by CDPH to the RLECWD.
2. Requirements and compliance records for drinking water quality standards, pressure standards, backflow prevention controls, and other public water supply standards.

3. Citations, requirements and status of compliance of the RLECWD with CDPH Compliance Orders # 01-09-07- CO-004 issued November 19, 2007, and # 01-09-09-CO-004 issued December 28, 2009.

Background and Facts

The water district was established in 1948 as the Rio Linda Water District. Its purpose was to provide water service to the unincorporated community of Rio Linda in northern Sacramento County. In 1998, the District was expanded to include the community of Elverta and was renamed the Rio Linda/Elverta Community Water District (RLECWD). It now covers 18 square miles and extends to the northern boundary of Sacramento County. Planned new developments in Elverta could accommodate about 5,000 new dwellings. Much of the developed portion of the District is comprised of low and medium density residential development. Some of the District's existing water wells date back to the 1950s. Eleven wells were constructed between 1957 and 1993. The RLECWD has a population of about 14,000 residents. Many residents have their own water wells on their property. The RLECWD ratepayers are served through 4,600 metered connections to the District's water system.

Water Utility Services

The RLECWD water supply and distribution systems have never met all of the requirements and standards that define desirable community water service. These standards include:

CDPH Water Supply Permit #3410018 issued to RLECWD by the state.

California Waterworks Standards (CCR¹⁵ Title 22)

Sacramento County Fire Code.

The RLECWD water system comprises some 63 miles of distribution pipelines, 11 wells and one 125,000 gallon elevated water storage tank. The District's well stations are not of modern design. Two wells (#3 and #5) were removed from service in 2006 due to changes in federal drinking water standards for arsenic concentration. Accordingly, these two wells can only be used in emergencies. Some of the well stations, and other District facilities, have inadequate security against illicit entry and vandalism.

On July 17, 2007, the RLECWD signed an agreement with the Sacramento Suburban Water District (SSWD) to provide an additional source of water in emergency and/or low pressure situations. This source of supplemental water is important but has a limited capacity due to piping limitations. Having additional interconnection capacity would be of value, especially in the short term, pending the availability of a reliable District water supply.

¹⁵ California Code of Regulations

On November 19, 2007, the California Department of Public Health (CDPH) issued a Compliance Order Number 01-09-07-CO-004 against the RLECWD. The compliance order addressed nine directives but primarily it requires the water district to correct ongoing water supply and pressure deficiencies. It also imposed a service moratorium on the RLECWD prohibiting any new service connections until all corrections listed in the compliance orders are completed.

The California Waterworks Standards (CCR Title 22, Section 64564) state the requirements for supply capacity and volume to meet system demands. The requirement for water pressure is 20 pounds per square inch (psi). In 2007, the water district hired a consulting engineer to provide an analysis of the RLECWD water demand. The analysis concluded that the District had a shortfall in reliable capacity of 1,060 to 1,900 gallons per minute (gpm) depending on how the system is used. In addition, the analysis established that the maximum fire flow requirement is 4,000 gpm. This requirement would be impossible to meet should a serious fire occur in the summer months. The analysis also stated many water pressure readings were as low as 8 psi.

The failures of the RLECWD to comply with acceptable water supply standards were documented by the CDPH 2007 Compliance Order. The compliance order found that the “...district is not providing a reliable and adequate supply of water at minimum pressures to ensure that the water delivered to its customers is at all times pure, wholesome, healthful, and potable. CDPH has determined that the district water system does not have sufficient capacity to serve its current customers.” The 2007 Compliance Order established a moratorium on new water connections and a series of detailed remedial requirements. Some of the ordered operational requirements have been complied with, but no significant supply improvements have been made under the 2007 Compliance Order.

As a result of lack of compliance with the 2007 Compliance Order, CDPH issued a second compliance order (# 01-09-09-CO-004) against the RLECWD on December 28, 2009. It cited the district’s two additional years of violations. In this new compliance order CDPH took the somewhat unusual action of setting forth a required series of steps and deadlines for implementing specific items of water supply improvements.

The 2009 CDPH compliance order specifies that both compliance orders shall remain in full force and effect until the district has complied. Obviously this has a major impact on impending community development in the RLECWD service area. CDPH has limited ability to force the correction of violations by its Water Supply Permit holders. In the final analysis, CDPH may refer the violations to the state attorney general, though such actions are rare. In a few such cases in the state over the past several decades, referral to the attorney general has resulted in fines.

The RLECWD has submitted a loan application to the State Revolving Fund. This fund, which is managed by the state and partially financed with federal grant funds, loans money at favorable interest rates to needy water utilities for basic capital improvements. The RLECWD is requesting a \$7.5 million 20-year loan. Without such a loan of public funds there is little chance that the District will obtain funding for needed capital improvements or even come close to meeting all conditions of the two existing CDPH Compliance Orders.

On numerous occasions in the past several years the District has failed to meet waterworks standards, as recorded by CDPH. In the years 2007, 2008, and 2009, there were many instances of system pressures below 20 psi cited by CDPH. CDPH stated that “Such low pressure events can allow infiltration and contamination of the water supply.” This public health risk is compounded by many pipeline leaks in the RLECWD system. The District has failed to maintain a legally acceptable cross-connection control program (to minimize back siphonage of contaminants into distribution pipelines) with prescribed testing and reporting.

Over the past five years the RLECWD has had water system master plans and source water capacity assessments by professional engineers, but has been unable to implement their recommendations to achieve consistent compliance with waterworks standards. To meet accepted standards the RLECWD would need to:

1. Add reliable water supply sources (wells, surface water sources, or a combination of these plus storage and emergency power supplies). These sources would supply peak hour water demand, and maximum daily demand plus fire suppression flows of 1,000 to 4,000 gallons per minute (gpm) sustained for two to four hours, depending on the area and structures to be protected.
2. Add several miles of high capacity pipelines with looping, connections and fire hydrants to convey the needed peak demands and fire flows to all portions of the service area and maintain a minimum pressure of 20 psi at all times.

One other aspect of the deficiencies of the RLECWD concerns the cost of insurance coverage for homeowners and businesses in the District. Most insurance consumers are not aware of it but the Insurance Services Office (ISO)¹⁶, a national organization, has a significant influence on the cost of insurance for residences and businesses in a community.

The ISO conducts periodic surveys of communities to evaluate conditions that affect insurance company risks. There are many factors, both individual home and community, that affect insurance rates but few have as much impact as the availability of water for fire suppression. Every community fire agency is reviewed for such things as equipment, proximity to fire hydrants and fire stations, and the capacity of the water systems. This

¹⁶ <http://www.iso.com>

organization assigns a relative rating to each aspect of a community's ability to support fire suppression.

Businesses and homeowners of the Rio Linda/Elverta Community Water District have been adversely impacted by having to pay higher insurance rates due to a poor evaluation of the fire suppression aspects of their community. A conservative estimate, based upon comparisons from an adjoining district, suggests at least a minimum of \$100 per year higher premium for each single family dwelling than if the water delivery capacity achieved a higher rating.

Board of Directors and Management

The elected board of directors¹⁷ has not done its job of providing fiscally prudent direction and sound water policy to the District. It has a long list of failures. For example, instead of doing its own job, board members often interfere with the operations of the RLECWD general manager. While the district's policy manual recommends that directors not go independently to other agencies on district business and should coordinate all inquiries through the general manager, board members do not follow this recommendation. Individual board members meet with outside agencies without the general manager. This results in contradictory and misleading information being presented to the District. A current director accused an earlier general manager of falsely reporting technical violations by the District to the CDPH in retaliation for activities of the board. This director claimed this action precipitated the 2007 CDPH Compliance Order.

Because of dissension and opposition among the public, the staff and the board, the board has been deterred from taking timely actions. The board has been shouted down in meetings. It has not obtained a physical inventory because staff members have told the board that it is interfering with the day-to-day running of the District, and it does not publish meeting minutes in a timely manner, sometimes being three months behind.

Some board members have repeatedly opposed planned capital improvements and deny the water system has serious problems, even after the 2007 CDPH Compliance Order. At a board meeting on January 12, 2009, a director stated she had met with CDPH and alleged the figures used in the CPDH Compliance Order were false and would be recalculated. The board authorized \$30,000 to have the figures recalculated by a consultant. The new analysis confirmed the existing figures were correct to within one percent.

For years conflicts among members of the board of directors have been played out in the pages of local daily, weekly and monthly newspapers. Not only does this coverage work against the best interest of the district, but may also involve a conflict of interest. One

¹⁷ Board of directors, board members and directors are terms often used here to refer to the same entity.

director owns a newspaper which has been used to attack other directors and general managers. Another director is a sales representative for the same newspaper. In August 2008, the newspaper stated the water shortage was manufactured by a former general manager and the CDPH said the problem was "...blown out of proportion." A CDPH representative denied making any such statement.

In 2008, the newspaper owner billed the District for a price quotation on publishing public notices in the paper which were not published. The sitting general manager refused to pay the bill, but a subsequent general manager did pay it. In August, September, October, and November 2008, the newspaper published what appeared to be an advertisement supporting certain water district candidates. It was not identified as paid political advertising, nor was any California Fair Political Practices Commission (FPPC) identification number included. In 2009, this newspaper billed the board for publishing a letter from the general manager. The board approved and paid the bill. It is unclear whether the newspaper owner voted to approve payment of the bill. In 2009, the newspaper published an advertisement for a vacancy on the board of directors for which it was paid four times what another paper was paid for a similar ad.

In addition to the possible conflicts of interest, board members, individually and as a group, do not consistently follow the law. In the 2008 election, it appears board members did not file any information with relevant agencies regarding campaign financing. The board has violated the Brown Act¹⁸ by using closed board sessions inappropriately. In 2009, the board had multiple closed board sessions regarding planning and potential site acquisitions which appear to violate the Brown Act including, but not limited to, California Government Code Section 54956.8. This section requires the property address or plat number of the site being discussed and information regarding the negotiating parties be disclosed to the public. In response to public questions, the board asserted the sites could not be disclosed. On February 9, March 4, March 9, and April 13, 2009, the board of directors met in closed sessions, without satisfying public disclosure requirements, to consider the purchase, sale, exchange, or lease of real property for future water well and water storage tank sites. Rio Linda/Elverta residents have alleged the proposed site for a new well is owned by a relative of a director.

Within the last two years the District has employed four general managers, most of whom occupied interim positions. One person with no water utility management experience was hired as general manager. General managers have been hired without having background checks. New general managers have accused earlier general managers of misconduct or mismanagement. General managers and directors have blamed each other for the District's problems. The present general manager states one of the District operators refused to follow his instructions despite the fact that he is a district employee.

¹⁸ See California Government Code Section 54950 or follow the link <http://www.leginfo.ca.gov/>

In 2008, the general manager asked that one of the directors be censured for interfering with his work. The director then filed an assault complaint with the Sacramento County Sheriff's Department against the general manager. The general manager reported the director for FPPC violations. Another director moved that the first director be removed from the board. The director was not removed and wrote a vituperative essay in the local newspaper. The general manager later sued the district, the newspaper, and individual board members for defamation. The District settled the case.

The frequent change of general managers has contributed to the District's instability. These new managers lack institutional knowledge, credibility with employees, and confidence to be candid with the board. The board has changed district general counsel several times and does not direct the counsel to attend all board meetings. As a consequence, legal and conduct issues have often gone unaddressed and uncorrected.

The District has also had years of conflict with its employees and their union. Currently the District only has six employees and has never had more than ten employees; yet the District has spent hundreds of thousands of dollars on labor negotiations and employee lawsuits.

The on-going conflicts within and among the board members, the general managers, citizens and employees have seriously affected the board's ability to make sound policy decisions and undermine the general manager's ability to conduct District business. It is unclear who--if anyone--is running the district.

Fiscal Accountability

A major concern was identified during the grand jury's review of the District's most recent financial statement and auditor's report (for the fiscal year beginning July 1, 2007). This report questions the District's ability to continue as a going concern, i.e., does the District have the financial resources to stay in business?

For many years the RLECWD has prepared an annual financial transactions report (District bookkeeper's report), but the only recent independent (CPA) audit was for the fiscal year 2007/2008. According to California law, a financial transaction report and an annual independent audit report shall be submitted each year.

The 2007/2008 audit report also raised serious concerns about deficit budgets and operating expenses exceeding operating revenues by \$429,194 in that fiscal year. The auditor found that fees charged to ratepayers do not meet expenses, nor do they permit funding capital improvements. The audit report suggests a negative long-term impact on the district's finances going forward. The auditor also noted the compliance order, issued by the CDPH. This order imposed a moratorium on all new development which led to the loss of developer fees and contributions to capital assets.

To partially satisfy the CDPH Compliance Order, the District ordered construction of a new well, #14. The well was drilled and cased at a reported cost of approximately \$800,000. Test pumping revealed that well #14 could produce between 2,000 to 2,500 gallons of water per minute, more than three times the average of the existing wells and enough to bring the District's total sustainable capacity up to its maximum day demand. Unfortunately, well #14 contained arsenic levels above the drinking water standard. Since the well would be such a high producer, the advice of the general manager was to proceed with the completion of the well and add treatment facilities to correct the arsenic levels. Without further engineering or economic analysis, the board of directors decided instead to abandon this well.

The next logical step would be to construct a new well in another location, but the District lacks the funds to proceed. The only way forward is to borrow money from the State Revolving Fund, a state fund designated for this purpose. However, to access these funds, the District must present a financial plan which satisfies the lender the District has the ability to repay the loan. Thus far, the District has been unable to demonstrate this ability. The District's efforts to create a viable financial situation involved cutting costs by terminating and demoting employees, which has led to litigation by the labor union which represents these employees.

The board of directors has steadfastly refused to raise water rates to its customers. In 2008, the board approved a "surcharge" for the purpose of amortizing the proposed State Revolving Fund loan. The adopted surcharge would amortize a major portion of the capital cost of improvements required by the CDPH Compliance Orders. The surcharge is the same for each water customer (now \$15 per bimonthly billing period) regardless of the type or size of premises. Opinions from a professional accountant, a manager, and a consultant are that this surcharge violates California Proposition 218. Proposition 218 requires, among other things, that agency utility rates be proportional to the cost of providing service. Obviously, it costs much more to provide water to a manufacturer, school, or park than to a single family residence. Further, Proposition 218 requires a complete cost-of-service study and a public hearing before changing the design (structure) of a utility rate.

The auditor identified other shortcomings in the District's financial management. Among these were the lack of inventory control and off-site backup for computer records. In addition, payroll and recording of accounts receivable were identified as needing improvement. The auditor noted that CalPERS and workers compensation contributions were not always made on time.

Sacramento County Local Agency Formation Commission (SacLAFCo)¹⁹

SacLAFCo is responsible for coordinating logical and timely changes in local governmental boundaries; conducting periodic reviews of the adequacy and efficiency of each agency's performance of public services; and performing special studies that review ways to reorganize, simplify, and streamline governmental structure. It also prepares a Sphere of Influence (service area) report for each city/special district within the county. A goal of the LAFCo process is to provide efficient and economical services, while agricultural and open-space lands are protected. State law requires SacLAFCo to conduct a Municipal Service Review (MSR) for each agency within the county to evaluate the provision of public services. SacLAFCo has never conducted an MSR for RLECWD.

Any agency reorganization (change of political structure) requires LAFCo approval. Approval is preceded by a study, preparation of an updated MSR and Sphere of Influence, and a LAFCo public hearing. Most agency changes, whether reorganizations, changes of functions, or service area, are expeditiously processed by LAFCo. This follows the receipt of a request and statements of support from the affected agencies. SacLAFCo generally requests funding for organizational studies and reorganization proceedings from the interested parties (agencies) but this is not required by law.

Reorganizations that make fundamental changes in a district's form, or its very existence, are usually more difficult. LAFCOs have the power, under California Government Code Section 56375 (the Gotch provision), to initiate and conduct a reorganization proceeding and its required components.

An effort to use SacLAFCo's reorganization powers and expertise to improve the RLECWD was started in 1995. The Rio Linda Chamber of Commerce requested and offered to pay for a SacLAFCo study of consolidation of the (then) Rio Linda Water District and the Rio Linda Parks and Recreation District into a single community services district. A study was commenced but was interrupted by many debates, arguments, withdrawals of support and continuous wrangling. The project morphed into a SacLAFCo study of reorganization (merger) of the Rio Linda Water District and the adjacent Northridge Water District (now the Sacramento Suburban Water District). Lack of cooperation between the affected agencies and lack of mutual interest led to an April 1997 abandonment of the SacLAFCo proceeding.

This reorganization attempt amply demonstrated that, unless there is common endeavor and mutual support, a reorganization proceeding is not smooth or easy. SacLAFCo must decide what the public interest requires and take strong action to initiate and manage a reorganization

¹⁹ See <http://www.saclafco.org>

proceeding to a successful conclusion. SacLAFCo has not fulfilled its mandate of determining the efficiency and viability of this District.

Findings and Recommendations

Finding 1.0 The Rio Linda/Elverta Community Water District (RLECWD) does not have adequate, reliable sources of water supply to meet requirements of its existing customers based on accepted standards of service and requirements of the California Department of Public Health (CDPH) Water Supply Permit.

Recommendation 1.1 The RLECWD should give immediate priority to negotiating and implementing additional emergency and peak demand water supplies from its neighboring water utilities.

Recommendation 1.2 The RLECWD must give high priority to completion of at least one new high capacity well, while at the same time proceeding expeditiously with completion of additional supply improvements to meet CDPH Water Supply Standards and satisfy conditions of its two CDPH Compliance Orders.

Recommendation 1.3 The RLECWD should acquire enough standby power capability (engine-driven generators, or equivalent) to meet at least average system demand during an electrical power outage.

Finding 2.0 The defective RLECWD water system poses significant risks to public health and safety. The District must make a series of improvements to mitigate these risks.

Recommendation 2.1 The RLECWD must institute and maintain a backflow prevention program meeting all requirements of CDPH.

Recommendation 2.2 The RLECWD must improve its water supply for fire suppression by increasing the available reliable water supply to meet fire flow standards (flow, volume and pressure) of the county fire code and the Sacramento Metropolitan Fire District (SMFD) throughout the distribution system.

Recommendation 2.3 The RLECWD should retain an independent consultant to conduct a risk survey concerning all security and illicit access deficiencies and the District should correct them.

Finding 3.0 The RLECWD does not have a complete inventory of all equipment and assets owned by the District.

Recommendation 3.1 The RLECWD should immediately conduct an inventory to account for all equipment and assets.

Finding 4.0 The RLECWD has been torn by factionalism for years. Contentious behaviors by the board of directors, general managers, employees, employee unions, concerned citizens and ratepayers have led to a dysfunctional organization. Self interest has prevailed over quality public service.

Recommendation 4.1 The board of directors and staff at the RLECWD should be trained in professional management and conduct, ethics, and respect for others.

Recommendation 4.2 The board of directors should confirm and enforce performance standards for all levels of the District.

Finding 5.0 The board of directors has wasted the District's assets. The board of directors and general managers have spent funds on unsound purchases, investments, and legal expenses arising from inappropriate or ill-advised actions.

Recommendation 5.1 The board should retain and take the counsel of professional experts in accounting, law, human resources, water utility management, engineering and utility rate analysis.

Recommendation 5.2 The board should develop and implement an effective financial plan which includes capital improvements.

Finding 6.0 The board of directors is dysfunctional and misguided. Directors have often ignored recommendations of the general managers and experts on financing and implementation of capital improvements to the detriment of the District. The board has interfered with the day-to-day operations of the RLECWD.

Recommendation 6.1 The board of directors should adhere to its own internal policies and stop micromanaging the daily operations of the water district.

Finding 7.0 On numerous occasions board members have violated the Brown Act and their own regulations regarding public meetings.

Recommendation 7.1 The board of directors should regularly seek and follow legal advice concerning their obligations under existing meeting laws and regulations.

Finding 8.0 Without major changes in governance, management, and resource utilization the RLECWD is unable to satisfactorily correct its problems and provide high quality water utility services to its present service area and the remainder of the district area.

Recommendation 8.1 One solution to these problems is a reorganization of the District. All affected public agencies (CDPH, SacLAFCo, Sacramento County Board of Supervisors, Sacramento Metropolitan Fire District, Sacramento County Department of Health and Human Services, and Rio Linda-Elverta Chamber of

Commerce) and interest groups should formally urge the RLECWD Directors to declare their intent to reorganize the District.

Recommendation 8.2 SacLAFCo should immediately initiate a reorganization proceeding which includes completion of a Municipal Service Review (MSR), and a study of feasibility and alternatives for reorganization of the RLECWD.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to indicated findings and their associated recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by July 6, 2010, from:

- **The Sacramento County Board of Supervisors (Findings 1.0, 2.0, 5.0, 7.0, 8.0)**
- **Sacramento County Local Agency Formation Commission (Findings 1.0, 2.0, 5.0, 8.0)**
- **Rio Linda/Elverta Community Water District (Findings 1.0, 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0)**

The Grand Jury requests the following entities respond to this report:

- **California Department of Public Health (Findings 1.0, 2.0, 5.0, 8.0)**
- **Rio Linda-Elverta Chamber of Commerce (Findings 1.0, 2.0, 5.0, 6.0, 8.0)**
- **Sacramento Metropolitan Fire District (Findings 1.0, 2.0, 8.0)**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com



Sacramento County GRAND JURY



Rosemary Kelley
Rudolph Castro
Michael Chakerian
Honoruth Corbett
Laverne Cord
Odette Ebersole
Lyle Hoag
Jerry Jaggers
Elizabeth Knopf
Philip Milano Jr.
James Monteton
David Pritchett
Donald Sharon
Ronald Schreiber
David Smith
Robin Whiting
Krystal Wolfe
Sharrel Wyatt
Gary Ziegenfuss

Dear Judge Cadei and Residents of Sacramento County,

By law, grand juries issue a report at the end of their terms in June. The Sacramento County Grand Jury is issuing this report early to call attention to the unfunded liability for retiree health benefits owed by Sacramento County school districts. At this moment, the unfunded liability for retiree health care costs approaches \$1 billion.

The grand jury has learned that the school districts in the county have contractual obligations with unions to pay retiree health benefits. The districts entered into these contracts when the districts were financially healthy. The contractual obligations have grown over the years and are now a substantial encumbrance—when the districts are not as healthy financially.

Unfortunately, most of the districts never actually set aside any money to pay these benefits, believing that their general funds every year would be sufficient to pay the obligations. In some districts, the amount owed to pay retiree health benefits is greater than the annual school budget. For example, the Sacramento City Unified School District has an annual budget of \$366,000,000 and a retiree health benefit obligation of \$560,000,000.

The grand jury is concerned that the districts report huge liabilities, but twelve of thirteen districts have no funds to pay the liabilities and are not setting aside any money to pay them. These obligations are not going away, however, just because they are ignored.

All of those involved—administrators, school boards, teachers and unions—have a responsibility to resolve this problem. Either that or they face dire financial consequences. Who is going to tell retired teachers that they have lost their health benefits or tell students and their families that there is no money for school programs? The grand jury recommends that each school district immediately turn its attention to finding the best possible solution for its district.

Sincerely,

Rosemary Kelley, Foreperson
2009-2010 Sacramento County Grand Jury
RK/bc

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Unfunded Liabilities for Retiree Health Benefits

A School District Fiscal Time Bomb!

Summary

The school districts in Sacramento County have an unfunded liability for retiree health benefits approaching \$1 billion. While the districts owe retiring or retired teachers and other employees that sum, many districts do not have the money to pay their obligations. Districts and employees negotiated the benefits when times were good, but no funds were ever set aside to pay for them. Apparently districts thought they could pay from each year's budget. However, that is not a realistic expectation. Sacramento City Unified School District alone owes \$560,000,000 and is trying to put aside \$1 million each year to pay the obligation. The liabilities are so large that school districts may go bankrupt or retired teachers may not receive health benefits. Yet many districts admit they have no plan to deal with their unfunded liability.

The attached table reflects self-reported information from each school district in Sacramento County and the Sacramento County Office of Education regarding the unfunded liabilities for retired employees' health benefits. This table includes the adopted budgets, shows whether or not the districts have discussed this issue at a board of education public meeting in the last three years, and if there is a plan to fund its debts. The notes represent some of the detailed information given to the grand jury.

Definitions

For purposes of this report the following definitions are provided:

“Pre-funding” is setting aside funds to pay for future benefits while the employee is working.

“Pay-as-you-go” is meeting the employers' OPEB²⁰ cost obligation on a year to year basis with current revenue.

“Unfunded liability” is the actuarial value of anticipated future financial obligations that is not covered by similar value of assets and anticipated revenues.

Background

The history of collective bargaining by teachers dates from the 1960s. Prior to this, school districts and administrators had virtually unrestricted power to establish working conditions and compensation for teachers. Pensions were generally awarded to retired teachers at age 65, with 35 years of service.

²⁰ OPEB includes post employment healthcare, as well as other forms of post employment benefits (for example, life insurance) when provided separately from a pension plan. (Governmental Accounting Standards Board, summary of Statement 45, June, 2004.)

In the early 1960s, various states granted school employees the right to “meet and confer”, a form of collective bargaining. Resulting agreements offered salary stability, guaranteed benefits, and modifications of terms and conditions of employment for school employees.

Retiree health benefits were initially granted to school district employees from generous and well-to-do school districts. Some of these health benefits were lifetime and some included family coverage. The school districts often bore the entire cost of these benefits. These benefits became the subject of meet and confer sessions and went on to be a very important part of collective bargaining between boards of education and employees.

Since 1985, the California State Legislature has taken several actions to enhance health benefits of retired teachers. Districts that provide health and/or dental benefits for current teachers must permit retired teachers and their spouses to enroll in the same plan. The law also allows plans to set higher premiums for retired members as compared to current employees. This is based on retirees' typically higher utilization of medical services. However, state law does not include a requirement for districts to contribute to retirees' coverage. Thus many districts have obligated themselves contractually to fund these benefits but never set aside any money for them.

Approach

In gathering data for this study, the grand jury conducted interviews and took sworn testimony from school board members, superintendents, district personnel, and an actuary with a public entity; reviewed collective bargaining agreements and the minutes of school board meetings; reviewed district policies and administrative procedures; and attended school board meetings. A self-reported survey was completed and submitted by each school district and the county office of education.

Disclaimer

Sacramento County school districts were asked to self-report the dollar amount of unfunded liability for retiree health care costs. The cost of these future benefits is part of the total obligation of each district. The attached table contains the amounts reported. The accounting/actuarial methods used by each district for arriving at the amounts may not be the same. Some districts chose the Other Post Employment Benefits (OPEB) amount while other districts used actual retiree health care benefits costs. Reported amounts require numerous inputs and assumptions and these vary widely among the districts. Some districts only report their cash outlays for OPEB benefits in a given year, rather than reporting employer costs of accrued OPEB benefits earned by employees in that year--and these two amounts may differ. In this study it was not possible to examine the details of each reported unfunded liability or to bring these amounts to a common definition with common assumptions. As a result, the districts' actual unfunded liability amounts could vary significantly from the self-reported unfunded health liability amounts in the table.

Nevertheless, these potential variations do not change county school districts' financial obligations for retiree benefits in addition to pensions. The results of this survey should be viewed as point-in-time, self-reported data that provides insight into the magnitude of these unfunded liabilities. The grand jury is not pointing out the exact amount of the debt so much as the fact of a largely ignored obligation.

School District Responses for Information on Unfunded Liabilities for Retired Employee Health Benefits

School District	Superintendent	Adopted 2009-10 Budget (General Fund) as per SCOE	Self-Reported Unfunded Health Liability	Has the issue of unfunded liability for retired employee health benefits been discussed with your Board of Education within the last three years?	Is there a payment plan currently in place or currently being negotiated regarding this unfunded liability?	Notes from information by school districts.
Arcohe (K-8)	Mark Cornfield	\$3,570,366	\$568,000	No	No	See note 1
Center (K-12)	Scott Lochr	\$37,348,171	\$5,898,425	No	No	
Elk Grove (K-12) (LT)	Steven Ladd	\$482,902,748	\$33,329,761	Yes	Yes	See note 2
Elverta (K-8)	Elizabeth Golchert	\$2,172,541	\$139,962	No	Yes	See note 3
Folsom Cordova (K-12)	Patrick Godwin	\$144,043,900	\$18,700,000	Yes	Yes	See note 4
Galt (K-8)	Karen Schauer	\$31,545,743	\$5,104,307	Yes	No	See note 5
Galt (9-12)	Daisy Lee	\$19,440,693	\$0	n/a	n/a	
Natomas (K-12)	General Davie, Jr.	\$76,196,471	\$5,440,225	Yes	No	See note 6
River Delta (K-12)	Richard Hennes	\$18,191,190	\$3,313,242	Yes	Yes	See note 7
Robla (K-6)	Ralph Friend	\$16,294,184	\$130,969	Yes	No	See note 8
SCUSD (K-12) (LT)	Jonathan Raymond	\$366,069,730	\$560,100,000	Yes	Yes	See note 9
San Juan (K-12)	Pat Jaurequi	\$360,293,651	\$74,785,897 (OPEB)	Yes	Yes	See note 10
Twin Rivers (K-12)	Frank Porter	\$252,719,433	\$8,161,958 \$67,139,320	Yes	Yes	See note 11
SCOE (LT)	David Gordon	\$120,201,816	\$33,366,368	Yes	Yes	See note 12
Totals		\$1,930,990,637	\$816,178,434			

(LT) = Lifetime Benefits

The following notes are highlights of *verbatim* information provided by the school districts within Sacramento County and the Sacramento County Office of Education.

Notes from School District Responses for Information on Unfunded Liabilities for Retired Employee Health Benefits

1. Arcohe Union School District – GASB 45 is a requirement for our district this year. During this year Arcohe will be putting our plan and trust in place.

2. Elk Grove Unified School District – Liability for retiree health care is broken into two different groups. Eligible employees that retired prior to July 1, 2000 receive their retiree health benefits through the District. The District pays the premiums for retirees to participate in the lowest cost plan that is offered to current employees. All eligible employees retiring after July 1, 2000, do not receive any post-retirement health benefits from the District. Rather, this second group of retirees is the responsibility of the Elk Grove Benefit Employee Retirement Trust (“EGBERT”). EGBERT has its own separate Board of Directors which sets benefit levels and manages the EGBERT trust assets . . . As of June 1, 2007 the District unfunded liabilities dollar amount was \$33,329,761 . . . As of October 15, 2008 the unfunded liabilities dollar amount for EGBERT was \$214,022,367.

The District’s liability for pre-July 1, 2000 retirees is funded on a pay-as-you-go basis. Due to the July 1, 2000 cut off date, the number of District retirees in this group and the corresponding liability for benefits is steadily decreasing over time. The cost of this pay-as-you-go model is built into the District’s budget and reviewed each year.

3. Elverta Joint School District – Pay-as-you-go is the current practice.

4. Folsom Cordova Unified School District – (Minutes of Board meeting of 02-15-07) . . . approve the establishment of a Fund 71 (irrevocable trust) to meet the District’s negotiated obligations for retiree benefits according to Governmental Accounting Standards (GASB) 45 . . . Contributions are made annually. Approximately \$1.6M annually is deposited into irrevocable trust. 2010-11 deposit will be less due to significant budget cuts from the State.

5. Galt Joint Union Elementary School District – The District had an actuarial study performed in 2008 that was presented to and approved by the Galt School Board . . . A payment plan is not currently in place for this liability. However, the District maintains a Retiree Benefit Fund that maintains a fund balance capable of funding current year plus the following 2-3 years out.

6. Natomas Unified School District – (Minutes of December 12, 2007 Regular Board Meeting) . . . [presentation of] actuarial Study of Retired Health Liabilities prepared by Total Compensation System, Inc... GASB 45 requires the District book this long-term liability starting in 2008-09.

7. River Delta Unified School District – (Board meeting minutes of February 17, 2009) . . . [Adoption of] Resolutions #603 to 606 giving approval to provide post-retirement vesting conditions for [all] employees and satisfy CalPERS vesting requirements.

8. Robla School District – (Board minutes of September 17, 2009) . . . approval of Actuarial Report for Robla School District’s financial obligations for post retirement.

9. Sacramento City Unified School District – (Board agenda item October 2, 2008) . . . \$560.1 million as of 12/2008 actuarial report received December 2009 and will be presented to Board of Education at future meeting . . . \$1.0 million has been set aside to start funding this liability. There is no on-going funding stream identified for this purpose at this time.

10. San Juan Unified School District – (Board budget presentation of June 10, 2008) . . . Administration was recommending funding the annual OPEB obligation at \$2.8 million for GASB 45 compliance after completion of PARS payments. However, due to the State budget plan, SJUSD administration is recommending delaying the OPEB contribution indefinitely . . . (On December 16, 2008) . . . Due to continued reductions in funding from the State, there are no current plans to fund this liability.

11. Twin Rivers Unified School District - \$8,161,958 is the amount of unfunded liability as of June 30, 2009. \$67,139,320 is the amount on our actuarial study for current and future retirees as of June 30, 2009. Currently, it is a pay-as-you-go plan.

12. Sacramento County Office of Education (SCOE) – (Memo from superintendent indicates SCOE has a funding mechanism in place through an irrevocable trust to eventually fully fund the liability for lifetime retiree health benefits.)

Discussion

With pension plans, a school district knows what the costs are going to be. With health care, the actual costs are not under a school district's control. A school district has no ability to affect health care costs or premiums. It is at the mercy of providers and insurers. While these costs have increased exponentially, school districts, boards and superintendents have either been unaware of or ignored their growing liability for retiree health care benefits. Few responsible parties have acknowledged the fact that obligations are growing rapidly but no funds are being set aside to pay the obligations. In the past this has not been a cause for alarm heard by (or from) school boards, superintendents, state regulators, state legislature or unions. Many districts have used a pay-as-you-go approach to meet their financial obligations for these retirement benefits. They appeared to believe that they would always have sufficient money to pay for them. The problem with pay-as-you-go is that districts may not have sufficient funds to pay the current year’s retiree health benefits and also pay for necessary school programs. The size of the unfunded liability has increased substantially but the school districts’ income has not.

The self-reported data collected from the 13 school districts in Sacramento County and the Sacramento County Office of Education indicate that four school districts have not discussed the topic of unfunded health care liabilities for retirees in the last three years. Seven school districts have developed plans to make payments toward their unfunded liabilities but six of these school districts have not funded these plans due to state budget cuts. However, six school districts have made no plans and continue to pay-

as-they-go. The self-reported data of some districts simply addressed the Governmental Accounting Standards Board (GASB) standard, which is only an accounting statement, and not a plan to pay the obligation.

In June 2004, GASB released Statement 45 and Statement 43, which detail accounting and financial reporting duties by employers for OPEB. “This Statement establishes standards for the measurement, recognition, and display of OPEB expense/expenditures and related liabilities (assets), note disclosures, and if applicable, required supplementary information (RSI) in the financial reports of state and local governmental employers.”²¹ Therefore, school districts that offer post employment health care to their employees should follow the GASB regulations and report their obligations.

However, it is not enough for a school district to follow GASB and report its unfunded liability. If a school district has long-term fiscal obligations for OPEB due to collective bargaining agreements with employees, the district should develop a plan for meeting such obligations. The district may apply to the state for reimbursement up to \$15,000 for activities related to developing a plan to meet its OPEB obligations. The plan should include the OPEB review of the financial obligations determined by the actuary and the strategy for funding the obligation.

In recent years some districts became alarmed at the trend of increased annual costs for retiree health benefits. To meet ever-growing unfunded liability amounts, some districts developed trust funds to buffer these exceedingly high costs, which must be paid out of the districts' general funds. Others made plans to gradually pay down their unfunded liability but have stopped these payments due to current budget shortages. Some districts simply have ignored the problem.

One of the difficulties in resolving the problem is the relationship between school boards and school unions. The unions have enormous influence on both school boards and administrators. School boards consist of locally elected community members. Basic qualifications usually include that the members live in the school district, are registered voters, and are at least 18 years old. Many people who run for school boards are parents of children who attend schools in their district. These parents have been active in their child's school and want to become “more involved” or want to “move up,” some with political aspirations and some with single-issue concerns. A school board candidate campaigns for a short time, to a limited audience, and frequently demonstrates a limited knowledge of school district governance but expresses a willingness to learn, a “grass roots” profile. School board members generally serve a three or four year term. Elections historically have a very low voter turnout.

School boards are often regarded as relatively weak governing bodies composed of part-time members with limited amounts of time to dedicate to the position, a limited knowledge of school district responsibilities and procedures, a limited interest in serious or strained negotiations with employees, and a dependence on the superintendent for information and guidance. School board members typically receive packets of agenda items a few days before the school board meeting. They have a limited amount of time to devote to the study of the agenda items, and a limited amount of time to

²¹ Governmental Accounting Standards Board, Summary of Statement 45, June 2004.

confer with the superintendent or appropriate school district staff. Board members talk on the phone and use e-mail with district staff but must be ever mindful of following the Brown Act²² regulations regarding talking with other school board members. It should be noted that some school boards often combine closed session agenda items such as labor negotiations or disciplinary actions so they fall outside of the guidelines of the Brown Act thereby holding sessions that are closed to the public. Many school board members apparently only scan the summary pages to agenda packets and generally follow staff recommendations. Most have limited knowledge about school budgets, finance, and their own responsibilities as elected officials. Often board members know little or nothing about unfunded retiree health care liabilities.

Typically teacher unions are most interested in identifying and endorsing school board candidates who have philosophies and goals that align with those of the teachers and teacher unions. Because of the size of their membership and their financial resources, unions have an enormous impact on school board elections.

As well as influencing school board elections, teacher unions and other employee groups can greatly influence the hiring and the tenure of superintendents. The result is a political tension for superintendents trying to please school board members and to develop positive relationships with staff and their union representatives. Historically, many superintendents are former classroom teachers who have moved from being site administrators, to district level administrators to superintendents. Most superintendents have additional degrees in educational administration and some have participated in short-term superintendent skill development programs offered by professional associations. There is now a growing interest in large districts in hiring superintendents with corporate, military or business experiences, along with knowledge of finance and labor negotiations. The school board usually selects a superintendent who matches the perceived needs of current school board members.

The issue of retiree unfunded health liabilities shows the impact of board members who can be short-term elected officials and superintendents who serve at the fragile pleasure of school boards. In summary, school boards and school district superintendents can easily assume the unfunded liability costs will occur in the future, under someone else's leadership.

The focus of this Sacramento County Grand Jury study has been to identify unfunded retiree health care costs for school districts within the county. School districts have promised benefits that may not be paid or that can ultimately bankrupt the district, especially during the current economic climate. The financial obligation of school districts is overwhelming, especially for those who have adopted a pay-as-you-go plan. The information supplied to the grand jury indicates the total unfunded liability for retiree health care costs in Sacramento County school districts is approaching \$1 billion.

²² See California Government Code section 54950 or follow the link: www.leginfo.ca.gov/

Conclusion

While employers, employees, and retirees seem to consider an employer-sponsored health plan a desirable benefit, the continuing escalation of health care and premium costs places enormous fiscal pressure on school districts that try to maintain the benefits. Unless union contracts are renegotiated so that benefits are reduced or employees contribute to the payment of healthcare costs, the consequences will be devastating.

Health care costs will continue to escalate. If school districts fail to plan for funding of negotiated obligations for retiree health benefits, and employees and/or unions fail to assume some of the costs of the benefits, school districts will be unable to provide a quality education for students and may become bankrupt. In order to avoid these dismal prospects the Sacramento County Grand Jury makes the following findings and recommendations:

Findings and Recommendations

Finding 1 Sacramento County school district boards are not knowledgeable about the ultimate long-term fiscal impacts the unfunded liability for retiree health benefits will have on their districts.

Recommendation 1.1 Sacramento County school district boards and superintendents, with advice from actuaries and accountants, should immediately assess and quantify their long-term OPEB obligations and ramifications.

Finding 2 Sacramento County school districts have a variety of approaches in addressing the unfunded liabilities for contracted retiree health benefits. Some of those approaches include:

- Creating trust funds or other funding plans but stopping all contributions to them due to current economic conditions
- Creating trust funds and contributing to them
- Ignoring the problem
- Regarding the GASB standards as a “plan” when in fact it is only an accounting statement
- Utilizing an annual pay-as-you-go approach to these obligations, relying on their general funds for retiree health benefits.

Recommendation 2.1 All school districts should have a funding plan and a schedule of contributions in their 2011-2012 budgets.

Recommendation 2.2 School district boards must find means other than pay-as-you-go for funding these ongoing and increasing expenses.

Recommendation 2.3 All school boards should begin serious negotiations with their employee unions to reduce benefits or increase contributions.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by August 9, 2010 from:

- **Mark Cornfield, Superintendent, Arcohe Union School District**
- **Scott Loehr, Superintendent, Center Joint Unified School District**
- **Steven Ladd, Superintendent, Elk Grove Unified School District**
- **Elizabeth Golchert, Superintendent, Elverta Joint School District**
- **Patrick Goodwin, Superintendent, Folsom Cordova Unified School District**
- **Karen Schauer, Superintendent, Galt Joint Union School District**
- **Daisy Lee, Superintendent, Galt Joint Union High School District**
- **General Davie, Jr., Superintendent, Natomas Unified School District**
- **Richard Hennes, Superintendent, River Delta Unified School District**
- **Ralph Friend, Superintendent, Robla School District**
- **Jonathan Raymond, Superintendent, Sacramento City Unified School District**
- **Pat Jauregui, Superintendent, San Juan Unified School District**
- **Frank Porter, Superintendent, Twin Rivers Unified School District**
- **David Gordon, Superintendent, Sacramento County Office of Education**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

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Sacramento County GRAND JURY



Rosemary Kelley
Rudolph Castro
Michael Chakerian
Honoruth Corbett
Laverne Cord
Odette Ebersole
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Jerry Jaggers
Elizabeth Knopf
Philip Milano Jr.
James Monteton
David Pritchett
Donald Scharon
Ronald Schreiber
David Smith
Robin Whiting
Krystal Wolfe
Sharrel Wyatt
Gary Ziegenfuss

Hon. Judge Raymond Cadei, Advisor Judge to the Grand Jury

Dear Judge Cadei and Residents of Sacramento County,

Grand juries issue a final report at the end of their terms covering issues investigated during its tenure. The Sacramento County Grand Jury is issuing this report "The State of Foster Care in Sacramento County" early in the hopes of drawing attention to a serious problem.

All children are vulnerable; children in foster care are particularly vulnerable. These children often have physical and emotional problems, and they have all been separated from their birth families. In Sacramento County, Child Protective Services ("CPS") is the agency responsible for placing children in foster care and caring for them. The process is complex and opaque, and, over the years, various failings in the CPS organizational structure have become apparent.

Often CPS has been reactive rather than proactive. When something has gone wrong, CPS has tried to fix that particular problem rather than asking how it could do a better job of protecting children. There have been too many different social workers assigned to a child, too many placements in different homes and too few actual visits to the child.

CPS is trying to change, but it needs the cooperation of the entire agency and the necessary financial resources. As a community, we cannot simply bury our heads in the sand and expect CPS to protect these children. CPS can only do its job when it has our support. The Grand Jury hopes that by drawing attention to the size and complexity of the problem, CPS will be encouraged to carry out necessary reforms, and the county will provide the funds needed. Both have to happen if we want to save these children.

Sincerely,

Rosemary Kelley, Foreperson
2009-2010 Sacramento County Grand Jury

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The State of Foster Care in Sacramento County

1. Summary

For too long, Sacramento County Child Protective Services (CPS) has placed too much responsibility on individual social workers without adequate support or direction. Social workers have had to find homes for the foster children assigned to them using their own resources. They have had to make placement decisions on their own. CPS does not even have a database of foster homes that social workers can access. When counties are ranked by their success in foster child placement, Sacramento County places near the bottom.

CPS acknowledges that it acts like an agency in a small county, when it is actually an agency in a large county with correspondingly large problems. In 2008-09, CPS removed 3,000 children from dangerous homes and placed them into protective custody. In the month of August 2009, CPS workers personally visited 2,519 children living with foster families, relatives, or in group homes to make sure they were healthy and safe.²³ CPS often does not use systems it has that would help ensure the safety and well-being of children in its care, and other times it lacks necessary systems. Foster children have been passed from one social worker to another without any one social worker having the time to get to know the children or to bond with them. CPS's process for monitoring medical care is disjointed and ineffective for recognizing potential problems; few in the organization understand it and even fewer can explain it.

CPS is undoubtedly well-intentioned, but it has often stumbled. Only recently has it begun to ask itself where it is going and how it is doing in relation to providing the best it can for the children. Oftentimes, employees have not understood how the whole program works. CPS has been structured for the convenience of the organization, not in a way that works best for the children. For CPS to succeed in its mission, it must change. It must focus on children, on understanding and measuring what works for children, and providing it to them. Its new mission to put the welfare of the child and family at the core is a good step, but much work will be needed to accomplish this goal. A shrinking and uncertain budget does not help.

2. Foreword

The grand jury has the authority to inquire into the operations of any of the county agencies. Last year the grand jury issued a report on Child Protective Services (CPS) following an increase in child deaths. The report was mainly focused on the operations and procedures involved in the decision to remove a child from a home. This year's grand jury went further by inquiring into what happens with the child after the child is removed from his/her home. There are approximately 3,800 children currently in the foster care system in Sacramento County. Due to time constraints and the complexity of the foster care system, the grand jury was limited to the areas discussed in this report.

²³ CPS Fact Sheet, "Child Abuse Hurts", September 14, 2009

3. Issue

Does CPS adequately provide for the safety and well-being of the children in foster care?

4. Method of Investigation

The grand jury conducted interviews and/or took sworn testimony from: the Deputy Director of Child Protective Services, division managers, program managers, supervisors, social workers, information technology specialists, administrators from the Sacramento County Office of Education, the Director of the Sacramento Children's Home, a Health Program Manager with the Sacramento County Public Health Nurses, a Sacramento County Public Health Nurse assigned to CPS, a former Foster Family Agency social worker, foster parents, and youth who have aged out from the Sacramento County foster care system.

The grand jury observed the intake/hotline area, accompanied social workers from the Emergency Response unit on ride-alongs, toured the Children's Receiving Home of Sacramento, attended a Partners in Permanency meeting, and attended a CPS Community Partners Meeting. The grand jury also reviewed the periodic CPS reports submitted to the Sacramento County Board of Supervisors, reports from the Child Welfare League of America on CPS of Sacramento, numerous publications concerning foster care, past grand jury reports on foster care, and a series of articles in the *Sacramento Bee*²⁴ that discussed the death of a young girl in foster care.

5. Background and Facts

CPS is the county agency that investigates reports of child abuse and neglect, and provides services designed to keep children safe while strengthening families. The mission of CPS is multi-faceted, but essentially is to protect and support neglected or abused children in the county.

Foster care is defined as the 24-hour care of a child provided in a home other than the parents', either temporarily, or for long-term care. When the state removes a child from the parents because of suspected abuse or neglect, it is obligated to provide care for the child until he/she can be safely returned to his/her parents, find a new permanent home for the child, or until he/she reaches the age of 18.

In 2009, in Sacramento County there were more than 16,000 calls placed to the emergency hotline reporting suspected abuse or neglect of a child. The intake unit receives reports of abuse or neglect from citizens or mandated reporters. A computerized tool used in the hotline/intake area to determine if an investigation is needed is called Structured Decision Making (SDM). When it is determined that

²⁴ January 24-26, 2010

an investigation is required, it is either assigned as an Immediate Response, which requires contact with the child within 24 hours, or it is deemed a 10-day response. (The 2008-2009 Sacramento County Grand Jury Report on CPS titled “*Nothing Ever Changes-Ever*,” dealt mainly with these early procedures.)

In Sacramento County most of the children, who are removed from their homes, by CPS social workers or law enforcement, are first taken to the Children’s Receiving Home of Sacramento. This is considered their first placement but is a temporary emergency shelter with an average stay of about 30 days. While at this facility children are evaluated for their needs, receive a medical and dental assessment, attend school, and an appropriate placement is determined.

5.A Child Placements

Approximately one-third of all children removed from their homes exit the foster care system within the first 30 days. Those who do not exit the system are placed in the “least restrictive home,” defined as the most home-like environment that meets the child’s needs. After the child’s parent, in order, these are:

1. Relative of the child (such as grandparent, aunt, uncle, or adult sibling)
2. Adult who is not related, but has a close relationship with the child
3. Foster home
4. Group home
5. Community treatment facility

Of the 3,800 children in foster care in Sacramento County,

- 40-45% are in kinship placements
- 45% are in Foster Family Agency (FFA) homes
- 7-10% are in county licensed homes
- 5% are in group homes
- less than 2% are in community treatment facilities

The basic requirements to be a foster parent in a Sacramento County licensed home are:

- At least 18 years of age
- No criminal history (exceptions on a case-by-case basis)
- Have the bed space and no more than 2 children per room
- Adequate income to cover their living expenses

Although the minimum age to be a foster parent is 18, only in exceptional cases involving close relatives are foster parents accepted under the age of 21.

There are two different structures that apply to foster care funding. The majority (80%) of foster children qualify for the Federal Foster Care Program and around 50% of the costs are paid with federal funds. The remaining funds are approximately split between the state (20%) and county (30%). Because of these funding ratios, the county can lose as much as three dollars in funding for each dollar the County Board of Supervisors cuts from its CPS budget. The children who do not qualify for the federal program are funded by the state (40%) and county (60%).

5.A.1 Kinship

When a child is removed from the natural parents, CPS immediately begins the effort to reunify the family, while at the same time preparing for a permanent placement in the event reunification is not a viable option. “Kin Is In” is the motto, and CPS will search for this type of placement first because it has the best chance for a permanent placement and is less traumatic to the child.

Kinship homes must satisfy all of the same requirements that apply to regular county licensed foster homes. They also qualify for the same basic monthly rate as paid to county foster homes, and the children still have a social worker assigned to them who is responsible for overseeing their care.

5.A.2 County Licensed Foster Homes

County foster homes are directly licensed and overseen by CPS. Usually, these homes consist of families who intend to adopt a child, not to just provide a foster placement. Their focus is often specific to age, gender and health. They must first qualify as foster parents, and they will foster the child placed in their care until the adoption is final. This is why so few homes are available for foster child placements in county licensed homes.

In Sacramento County there are only 200-250 foster children currently in county licensed homes. Most foster parents would rather foster through an FFA because they are provided with more support services and are paid more than the rate paid to a county licensed foster home. A common complaint of county licensed foster parents is that the reimbursement paid is not enough to cover the expenses for the child. The basic rate for county licensed foster homes is \$550 per month per child, but varies with the age and needs of the child. Recent state regulations have limited the number of children in county licensed homes to a total of six children (biological, foster, step, guardian, kin, or adopted).

5.A.3 Foster Family Agencies

Foster Family Agency (FFA) homes were started in 1985 by state statute, to help find homes for the many children in foster care. The legislature stated “...because of the more difficult nature of foster children and the increased costs of caring for them, it is becoming difficult to recruit and train foster parents. One solution is to encourage the development of private, nonprofit foster family agencies

which recruit, screen, certify, train and provide professional support services to foster parents.”²⁵ FFAs are licensed by the state through Community Care Licensing (CCL). The FFAs certify the homes in their agency. All of the agencies must meet the state standard for health and safety, but some FFAs have additional requirements. FFAs are a key element in the foster care system in Sacramento County and in California. At least 45% of all foster child placements are made in foster homes managed through FFAs. In Sacramento County, there are more than 30 FFAs that are used by CPS but most placements are with a core group of 15-20 agencies. These agencies manage a large number of foster homes.

Each of these agencies provides services to the foster child and the foster parents. They provide more direct services to the child than are provided by the Sacramento County CPS, at a higher rate of compensation than for county licensed homes. All FFAs employ social workers who are required, at least twice monthly, to have face-to-face visits with the child. The other services provided by FFAs differ per agency and **may** include:

- Supportive services for the child and the foster family including advice and counseling, referral for respite care, liaison with the schools, and crisis intervention
- Available 24/7 for emergencies
- Maintenance of contact with siblings
- Transportation of children to visit with birth parents
- Individual, group, and family counseling
- Behavioral intervention
- Respite care
- Independent living and transition services
- Pre-adoption services

While the FFAs work with CPS through a Memorandum of Understanding, CPS has no contractual or other agreements with the foster homes recruited, selected or trained by the FFA. The Sacramento County CPS, however, does continue to have primary responsibility for the maintenance and well-being of the foster child and has an on-going obligation to visit and interact with foster children placed in these homes.

FFAs employ social workers and assign them to the homes in the agency. The FFA social worker must visit the foster child at least twice a month, and some agencies require a visit every week. The FFA social worker reports findings, concerns, and information about the health of the child to the county CPS social worker assigned to the child. Reporting is done by phone at least once a month, and in a written quarterly report. Any violations in a home found by the FFA social worker or by CCL are required to be reported to CPS. This information is compiled into a quarterly report and kept in the CPS file on the child.

²⁵ California Alliance of Child and Family Services, Foster Family Agency Fact Sheet

Testimony revealed that incentives are given to the FFA social workers to preserve the placements of foster children in their agency. This does not always serve the best interest of the child if a home is not working well. Currently, there is no limit to the number of children who can reside in an FFA home.

5.B Information Technology

Information Technology (IT) can increase the effectiveness and efficiency, and decrease the total cost of any organization or agency. Sacramento County CPS has developed and utilized many sets of software over the past 15 years. Last year the grand jury reviewed software packages used by the Emergency Response (ER) program in CPS. In this report, the grand jury was primarily interested in how these software programs were being used by the foster care system.

5.B.1 Current CPS Software

Below are some of the software packages that are currently being used. Some are provided by the state and some have been developed in-house by CPS IT personnel.

- CWS/CMS – Child Welfare Services/Case Management System (state provided)
- SafeMeasures - Performance tracking and evaluation tool (state provided)
- SDM - Structured Decision Making (state provided)
- IRIS – Immediate Response Interactive System (CPS/IT developed)
- CRS – Continuous Run Schedule spreadsheet (CPS/IT developed)

CWS/CMS is a very large interactive database which stores all the data about any child and/or family who enters the CPS system and is the primary software tool. CWS/CMS is a statewide networked computer system that is used by all 58 counties in California. Social workers, supervisors, public health nurses, and clerical staff enter the data. All the information gathered about all children and their families is stored for ready access by authorized personnel. Social workers are allowed access from their desk computers, “netbooks” in the field, and from their homes. Security is maintained by a password process and no data can be downloaded to outside computers.

SafeMeasures is a sophisticated quality assurance reporting service, which captures data from CWS/CMS monthly and links these data elements to key performance standards. It is view-only. SafeMeasures allows supervisors, Quality Assurance (QA) personnel and management a quantitative measure of the performance of social workers. It is used by all programs in CPS.

IRIS is used by Emergency Response (ER) management to ensure that action is taken in a timely manner in Immediate Response cases and CRS is used to keep track of which runner (field social worker) has received an IR referral on a given day and who is the next runner to be assigned an IR. Although this software is used only by ER, similar software could be developed for CPS programs like foster care. This would allow management to be aware of all the data concerning each child, each foster home, and each social worker. Software such as this could use data from the interactive, electronic database discussed in Paragraph 5.C.1.

5.B.2 Software Utilization

CWS/CMS and SafeMeasures® are the only software programs that are being used in the foster care program. For this report, the grand jury was primarily interested in how the software was being used by the foster care systems within CPS. Although it was not possible to do a complete and thorough examination of CWS/CMS usage, it appeared from interviews that data were not being entered into the database in a timely and complete manner. The database is only as good as the data in it. Data is often incomplete and out-of-date. For example, it was reported that the school locations of children were accurate only 27 percent of the time.

If the information is entered properly into CWS/CMS, it would have all the data relevant to each child but it is not user-friendly for extracting data. For example, it was not possible to extract height and weight data from the Health and Education Passport (HEP) in CWS/CMS and plot a growth chart. This can be achieved by using a program such as BusinessObjects® or a similar program.

SafeMeasures® can be used to track the performance of social workers, supervisors and managers. It is not being utilized to its fullest extent by supervisors and managers. SafeMeasures® is not being used to track foster homes.

As reported in this year's grand jury report titled "*CPS Follow-Up Report*," CPS has made significant strides in developing an electronic policies and procedures manual. Unfortunately, because of personnel reductions, organizational restructuring, and budget constraints, the foster care portion of the manual is not as complete as the ER portion. The demonstration of the completed section that the grand jury received was very impressive and it is hoped that they will be able to complete the remainder this year. Until this is completed, the personnel in foster care will not have a good resource for policies and procedures.

5.C Identified Problems

In a program as large and complex as the CPS foster care program, there are inevitably going to be problems. Nothing in government or private business ever works perfectly. In this report, the grand jury does not focus on individual mistakes, but rather on systemic problems. The grand jury addresses some of the problem points in the program. The goal is to identify problem areas that can be addressed to improve the safety and well-being of children.

5.C.1 Too Many Placements Per Child

In November 2009, a CPS report showed that 316 children (8.1%) are in their 4th placement, 239 (6.1%) are in their 5th placement, and 678 (17.5%) are in their 6th or more placement. When compared to the 20 largest counties in California for placement stability for children in care for 12 to 24 months, Sacramento ranks last. CPS acknowledges that placement stability "...continues to be a struggle." High placement rates result in poor outcomes for foster children.

The grand jury determined that there is no database, electronic or hard copy, which contains detailed information about foster homes. In the past, CPS expected social workers to find a placement for a foster child based only on his/her own knowledge and experience. Since CPS has no central database of all foster homes, and no centralized placement unit until recently, the social workers would call around to homes about which they had personal knowledge until they found a placement for the child. This method basically matched a child to a bed, and did not match the child to the best home possible to meet the needs of the child so that it would result in a good, long-term placement.

Team Decision Making (TDM) is when a social worker, the child (if appropriate), and any other adult important in a child's life, come together to discuss the best possible placement for a child. (TDMs have been used at various times and in various programs. Further discussion can be found in Section 5.D.2.) TDMs are currently required anytime there is a change in placement, but all too frequently they have not been done. Unfortunately, without a TDM to discover the needs of the child, the next placement will not necessarily be a good match. In some cases the TDM was not done until after the child was already moved. The decision to move a child made solely by a social worker, along with the lack of a centralized placement unit to find the best match for the child, has resulted in the high number of placements per child.

5.C.2 Too Many Social Worker Changes Per Child

Until recently CPS has used a system that resulted in too many different social workers working with any one child. When a child was transferred to a different program, such as Emergency Response, Dependency Intake, Court Services, Family Reunification, Adoption or Permanency Placement, he/she would receive a new social worker assigned from that program. The grand jury received testimony that one child might have had as many as eight social workers by the time he/she reached permanency placement. This system makes it extremely difficult for a foster child to even know who his/her social worker is much less establish any kind of a trusting relationship. This system may have worked for the organization, but it was not good for the foster child.

CPS is implementing a new organizational plan in which a child would have only one assigned social worker during the child's time in foster care. However, while managers are responsible and accountable for designing and implementing this new system, they must share their decisions with the appropriate unions and reach agreement. This "meet and confer" process is necessary whenever organizational changes will impact the working conditions of employees.

5.C.3 Inadequate Social Worker Visits

A foster child in long-term placement is only required to be visited by the CPS social worker every six months. If a child in long-term placement has a placement change, he/she are visited once in the first few weeks after the change, and then are only required to be visited every six months by the CPS social worker. This situation leaves a child placed in a totally new environment with little contact with his/her CPS social worker for an extended period of time. If it is a young child who is not verbal, or one who is not old enough to know how to contact his/her social worker, this is especially disturbing.

FFA homes are visited by both FFA social workers and CPS social workers. In some cases, the FFA regulating agency, CCL, has found violations in an FFA home. After a finding of a violation, CCL creates a correction plan to be followed by the FFA home. Although CPS has ultimate legal and moral responsibility for all foster children, CPS social workers have not always followed up on these findings, and CPS lacks any procedure to review the CCL correction plan. It appears that both CCL and CPS rely upon the FFA to ensure that the corrections are made.

5. C.4. Health Records

When a child first enters the foster care system the child receives a medical clearance exam and a Health and Education Passport (HEP) is started. These clearance exams are not required by law, but are important to determine the physical well-being of the child, to identify medical or mental problems, and to determine if immunizations are current. In 38% of these exams, evidence of physical abuse was discovered when physical abuse was not the reason for removal. In the past, these clearance exams were performed at the UC Davis Medical Center; they stopped in October 2009, when the contract with CPS was not renewed due to budget cuts. Subsequently, CPS received grant money from the First 5 Sacramento Commission²⁶ which allowed CPS to contract with Public Health Nurses (PHN) as of May 2010, to reinstate clearance exams.

There are 14 full or part-time nurses from the Public Health Nurse Department contracted by CPS who work with the children in foster care. Only four of these nurses, located at CPS sites with social workers, are allowed to visit the children. One is assigned to assist with the Emergency Response social workers, and the other three also work in the beginning of the process of removal from a home with court services social workers. By state mandate, the other nurses are not allowed direct contact with the children. They review the records for medical problems, and act as a resource to oversee the care that is given to the child. They may call the foster parent or social worker to explain the care needed and where the child needs to be taken to receive care. The PHNs are assigned to a specific program in CPS. For example, the adoption program has only one assigned PHN. These PHNs are responsible for reviewing the records of 400 to 600 children, depending on the program and the number of nurses assigned to it. The PHN may enter information in the HEP on a child, or a member of the clerical staff may enter information, and then it is reviewed by the nurse for accuracy.

The social worker assigned to a foster child is responsible for submitting court reports on the child every six months. Included in the court report is a section on the health of the child. Immunizations and well check-ups are to be completed. If these are not completed the social worker would contact the foster parents and they would take the child in for the needed exam or immunization. At these routine appointments, also called well baby/child visits, a Child Health and Disability Prevention Program (CHDP) form is filled out by the doctor with the information from the visit and sent in for payment. Information includes results from the physical exam, immunizations, height, weight, and laboratory results. A copy is sent to the PHN department that works with CPS and also the social worker assigned to the child. The results from the routine exam are entered into the HEP section in the CWS/CMS on the child by clerical staff. The HEP was designed to provide a copy of this information

²⁶First 5 Commission: www.first5sacramento.net

for the foster parents. They should receive a copy of the HEP soon after the placement of the child in their home, and every six months thereafter. It was reported that less than half of the Health and Education Passports are kept current.

Written instructions are given to the foster parents to take the HEP with the child to all medical, dental, counseling, and educational appointments. The providers are to correct or add information to the HEP at the end of the visit. The foster parents are to give the updated copy to the social worker at the next meeting.

When a child is taken for a medical appointment for something other than a well baby/child visit, e.g., for an injury, the physician is paid by MediCal. No record of the visit is sent to CPS or the Public Health Nurses. The only way that CPS would know about the medical visit would be: (1) if the foster parents report it, as required; (2) if the child reports it when visited by the social worker; or (3) if an injury is discovered by the social worker during a visit. The foster parents are responsible for informing the social worker of any "incident", such as from a fall, whether they require a medical visit or not. If a foster parent fails to disclose any "incident", and it is discovered, they can be cited and an investigation would take place.

Only if the doctor who is seeing the child suspects abuse would he/she report it to CPS on the hotline for possible investigation. The foster parent is under no obligation to take a foster child to the same doctor for each visit. Repeated injuries being treated by multiple health care providers might obscure a pattern of abuse.

Another problem area in the health records kept by CPS is that there is no method in place to easily see if a child is growing properly. When a child is taken to a doctor, his/her weight and height are plotted on a growth chart where it can easily be determined if the child is continuing to grow at the expected rate. While children range in size, they should continue to grow in height and weight in a curve on a growth chart. Failure to do so would trigger a concern for the health or welfare of the child. If a child is taken to different doctors for visits, each doctor or clinic would only see one point on the graph. There is no growth chart in the child's case files at CPS or in the PHN files. Since the health care provider, the caregiver and social worker can all change, the one place where a graph could track the growth of the child would be in their CPS social worker's hard copy file. Currently, CPS does not maintain growth charts on children.

In other parts of the country agencies in child welfare have had success in having all medical care given by a single provider. This method provides for a continuity of care for the children and a single stream of records that can more easily identify problems.

5.C.5 CPS Social Workers and Management

Social workers do not always follow CPS procedures. When investigating complaints of abuse or neglect, social workers have violated CPS policy by not interviewing collateral contacts who might have provided them with information. They did not always interview children alone as required. They sometimes failed to report complaints to other agencies such as CCL or the FFAs and other

social workers with children in the same home, as required. There is evidence that a supervisor failed to review an investigation to determine whether CPS policies were being followed. Testimony has been given that supervisors have signed off on reports where there is no evidence whether the supervisor contacted the social worker or checked the report's conclusions. As another example of failure to follow procedure, state law requires that there be a car seat for each child. However when a foster parent did not comply with the law, the foster mother had an excuse and the CPS social worker accepted the excuse and never followed up. Testimony indicates that social workers often accept the foster parent's explanation regarding injuries without adequate investigation.

5.C.6 No Database for Available Foster Homes

The grand jury's investigation reveals that there is no current database containing information on FFA managed foster homes which would track any meaningful information about those homes. Any information in the purview of CPS is purely anecdotal and apparently passed only by word-of-mouth from one county social worker to another. Of the total available foster homes contracted through FFAs, only a small percentage is actually used by a particular county social worker. The quality, not to mention the quantity, of foster care homes available to a county social worker would be enhanced by maintaining a database. This database should include information on each FFA foster home relevant to the safe maintenance and well-being of each child under care. How this can be accomplished is further discussed in section 5.D.3 of this report.

5.C.7 Problems Identified by Aged-Out Foster Youths and Foster Parents

The grand jury interviewed a small number of foster parents and former foster youths. Those interviewed may or may not be representative of the general population of former foster youths or foster parents. In general, former foster youths interviewed were not positive in describing their experiences in the foster care system. They stated that social workers were not easily accessible and there was no central contact person or number to call, should the foster child need help. The foster children moved from place to place and sometimes lost track of their assigned social workers.

Foster parents shared a number of concerns with members of the grand jury. They are generally concerned about the lack of information they receive when accepting a child into their home. Foster parents need to know about pre-existing medical conditions or behavioral issues, as well as learning disabilities or a history of substance abuse. Foster parents are also concerned about being allowed to continue receiving foster children in the event they are unable to cope with one placement.

Allegations against foster parents unfortunately are not an infrequent occurrence. Biological parents who have had their child removed from their home sometimes use allegations against foster parents in an attempt to get their child back. Foster children themselves can also use this method in an attempt to be returned to their parents. Anyone in the community who has a grudge against a foster parent knows that a call to CPS will bring someone to the home for an investigation and cause problems for the foster parent. Some nationwide studies indicate that the rate of allegations that are unfounded can be as high as 90%. CPS is charged with the responsibility to determine which allegations are true. The number of false allegations against a family can "muddy the waters" and bias CPS in favor of the

foster parent. When CPS receives repeated allegations against a foster parent, an unannounced visit to the home would help to determine the facts. These visits by CPS to a foster home to check on the welfare of the foster child and adherence to safety regulations are allowed, but infrequently done. Although an unannounced visit to a foster home can be traumatic to a foster parent, such visits can be done in a respectful and sensitive manner.

According to the longtime foster parents who were interviewed, training was described as out-of-date and not related to the children in their care. Approximately seven years ago CPS adopted the PRIDE²⁷ training program, developed by CWLA²⁸, for the initial foster parent training; therefore, the initial training has improved. An additional 12 hours of training are mandated each year, along with CPR training every three years. Longtime foster parents describe this video-based training as not relevant to today's foster youth. Foster parents reported they had to go to the library to research the problems of seriously disturbed children in their care. Foster parents felt more realistic training by other foster parents about real-life problems and how to deal with them would be much more beneficial. This was especially true with regard to children with serious problems and special needs.

5.D Solutions

In order to address the problem of the high number of placements that foster children have in Sacramento County, a study was done over two years ago by CPS to determine what other large California counties were doing to achieve better placement stability rates. Six counties that met these criteria were studied: Los Angeles, Orange, San Bernardino, Riverside, Alameda, and Contra Costa. The following are some of the elements that were identified in the more successful counties:

- Centralized Placement Unit
- TDM prior to removal or within the first 24-48 hours
- Foster Home Electronic Database

5.D.1 Centralized Placement Support Unit

The Centralized Placement Support Unit (CPSU) started in Sacramento County about one year ago as a pilot program with limited staff. In February 2010, use of the CPSU became mandatory to assist with placements in the Court Services program which takes place in the initial stage of foster care. The goal of the CPSU is to find the best possible match for the child so that the second placement, after a short stay in Children's Receiving Home of Sacramento (CRH) while assessments are being done, will be the last placement. The CPSU works with the social worker who knows the needs of the child, the school of attendance, and the problems of the child in order to match the child with a suitable foster home. When the CPSU is used, this automatically triggers a TDM. The goal of CPS is to make the use of the CPSU mandatory for new placements in all programs by the end of 2010.

²⁷ Parent Resource for Information, Development, Education

²⁸ Child Welfare League of America, www.cwla.org

In March 2010, the unit relocated to the CRH. CRH does not have the room to allow CPS to expand to accommodate the increased caseload that will be needed to accomplish this goal. A different location for the unit has not been identified. CPS staff is also concerned that budget cuts will not allow for the unit to be fully staffed, and therefore unable to manage the increased caseload.

The CPSU and all social workers receive a weekly email, listing the county homes that have space available to accept children, but it contains very little information about the homes. Social workers still make calls to the FFAs to see what homes are available. For example, they would call an FFA and tell them that they need a home with specific criteria to meet the child's needs. This method is very inefficient and time consuming.

5.D.2 Team Decision Making

Team decision making (TDM), as applied by foster care professionals, is a process used to gather information to help place a foster child in the least restrictive, home-like environment that meets the child's needs. A TDM can be helpful, if a child is being removed from his/her home, if a child needs a new placement, if there are problems with a current placement that need to be resolved, or if a foster parent requests that the child be moved. A TDM is also used when a case is being investigated and there is a risk of imminent removal of a child from his/her home. At an imminent removal TDM, a plan can be put into place to ensure the safety of a child so that he/she can remain in his/her home (e.g. having an agreement that the abuser is no longer allowed in the home).

Social workers act as facilitators and arrange TDMs. They usually take a few days to schedule, but can be as early as the next day in the case of imminent removal from the home. They are typically 1-2 hours in length. Included on the team are: the child (if appropriate), birth families, foster care professionals, and adults important in the child's life. The safety and the needs of the child are the top priority. The assumptions of TDMs are:

- A group can make more effective decisions than an individual
- Children deserve to be involved in decisions that affect their lives
- Families participate when they are included in the decision making process

Currently, TDMs are required for all placement changes. Despite this requirement, they are not always done.

5.D.3 Software

Many other counties in California and across the nation have developed interactive, electronic databases to facilitate the appropriate placement of children into foster homes, group homes and other facilities. These databases contain all the current data about every possible placement location. These are just some of the items that are stored in the database:

- Number of beds in the home
- Sex and ages that the home can accommodate

- Location of the home
- Elementary, middle, and high school proximity
- Special needs certification
- Any recent problems
- Names of social workers with children currently in the home
- Emergency acceptance status
- Restrictions, etc.

In counties using these types of databases, the data are kept up-to-date by county social workers and FFAs on a daily basis. All the data for foster homes are entered into the database with information from databases similar to California's CWS/CMS. This allows the social workers and managers to monitor each child and each foster home.

With a database as described above, a social worker can input data describing the foster child and the database can be programmed to match the child to the most appropriate list of homes. This not only ensures a better placement for the child but increases the effectiveness and efficiency of the social worker.

According to testimony from CPS personnel, they are working to develop a database similar to the one described above, but due to lack of funds and personnel cutbacks, it does not appear that this will be accomplished in the near future. CPS reports it is working with the Sacramento County Office of Education to make use of their Foster Focus program, a database that is designed to keep track of which school each foster child attends. The grand jury received vastly conflicting opinions concerning the future of these efforts.

Currently, social workers can only use their experience with, and knowledge about, a limited number of foster homes and FFAs to determine where to place a child. Most of the data concerning each foster child is kept in hard copy paper files.

6.0 Conclusion

This report began by asking the question: Does CPS adequately provide for the safety and well-being of the children in foster care? The grand jury does not have a clear "yes" or "no" answer to this question. One thing is clear . . . children do not do well, or deserve to be treated in assembly line fashion being moved from home to home, social worker to social worker, doctor to doctor, and school to school. CPS is attempting to implement systems that will make it more effective and efficient. While CPS has made changes in the last year to improve its operations, it has a substantial way to go.

7.0 Findings and Recommendations

Finding 1.0 The average number of placements for each foster child in Sacramento County remains too high, which results in poor outcomes for these children. When compared to the twenty largest counties in California for placement stability for the foster children in care for 12 to 24 months, Sacramento ranks last.

Recommendation 1.1 CPS should accelerate the implementation and mandate the use of the Centralized Placement Support Unit (CPSU) for all initial placements and placement changes.

Recommendation 1.2 The Sacramento County Board of Supervisors should appropriate funds to accomplish the full implementation of the CPSU which would include, but not be limited to, funding for adequate staff, facilities and equipment.

Recommendation 1.3 CPS should enforce the policy for Team Decision Making (TDM) meetings to occur prior to all placement changes.

Finding 2.0 The current organization of CPS results in too many social worker changes. This may be convenient for the organization, but it fails to effectively meet the individual human needs of the children.

Recommendation 2.1 CPS should continue with the implementation of the change to the operational structure to have a single social worker follow a child throughout the CPS system.

Finding 3.0 Currently, a child who is in long-term placement and has a placement change, is visited once in the first few weeks, and then every six months thereafter.

Recommendation 3.1 Children in long-term placement who have a placement change should be visited by their social worker at the same frequency as that on initial placement.

Finding 4.0 CPS does not have a good system to recognize health concerns and physical injuries that might indicate abuse or neglect of the children under their care.

Recommendation 4.1 CPS should require each social worker to maintain a growth chart on each child in their care to help identify medical conditions or possible abuse or neglect. Any irregularities should be referred to the Public Health Nurses for review.

Recommendation 4.2 CPS should develop and implement a better system that tracks all injuries to a child.

Recommendation 4.3 CPS should explore the possibility of adopting a program having a single medical care provider for all foster children.

Finding 5.0 The Health and Education Passport (HEP) is not kept current.

Recommendation 5.1 CPS social workers should hold the foster parents accountable for taking the HEP with them for all medical, dental, counseling, and educational visits for the child, and having the provider update and correct it as required.

Recommendation 5.2 CPS social workers should review the HEP record with the foster parent at least every six months.

Recommendation 5.3 CPS social workers should ensure that the data from the HEP is kept current in CWS/CMS. A copy of the updated HEP should be sent to the foster parent.

Finding 6.0 Social workers work closely with foster parents and can lose objectivity when repeated allegations against a foster parent are made and determined to be unfounded.

Recommendation 6.1 When there are repeated allegations against a foster parent, a social worker from the CPS Foster Home Licensing Program should make an unannounced visit to the home to check on the welfare of the child and conditions in the home.

Finding 7.0 Recent state regulations have limited the number of children in county licensed homes to a total of six children (biological, foster, step, guardian, kin or adopted). Foster Family Agency (FFA) homes are not currently included in these limitations.

Recommendation 7.1 CPS should apply this six-child limit to all new placements in FFA foster homes.

Finding 8.0 Foster parents are not always given sufficient information about the children they are receiving.

Recommendation 8.1 In all cases CPS should, prior to placement, fully disclose all known medical, behavioral, educational and special needs of foster children to foster parents.

Finding 9.0 Foster parents need better training to help them care for children with special needs.

Recommendation 9.1 CPS should survey foster parents to determine the topics in which they need additional training in caring for special needs children.

Recommendation 9.2 CPS should develop and offer this training.

Finding 10.0 In some cases, CPS did not follow up when Community Care Licensing (CCL) and/or an FFA found violations in a foster home.

Recommendation 10.1 All CCL or FFA reported violations should be sent to CPS and entered into the Child Welfare Services/Case Management System (CWS/CMS) file.

Recommendation 10.2 CPS should personally review all CCL or FFA violations and ensure that a correction plan is developed and completed.

Finding 11.0 CPS Foster Care does not have an interactive electronic database to assist CPSU and social workers in the placement of foster children in the most appropriate foster home.

Recommendation 11.1 CPS should develop a database that contains all the data needed to determine the best available foster home for each foster child. This can be developed in-house, contracted from another county, or a software developer.

Recommendation 11.2 The Sacramento County Board of Supervisors should appropriate adequate funds for this development.

Finding 12.0 CPS is not consistently entering data into and utilizing CWS/CMS.

Recommendation 12.1 CPS management should require and enforce that all data concerning each foster child be entered into CWS/CMS as it becomes available.

Finding 13.0 CPS supervisors and managers are not taking full advantage of SafeMeasures® to track social worker performance.

Recommendation 13.1 CPS management should require and enforce greater utilization of SafeMeasures® and evaluate supervisors and managers on their use of the program.

Finding 14.0 The development of an online CPS Policies and Procedures Manual was started last year and considerable progress has been made, especially in the Emergency Response sections. The remaining sections including Foster Care are far from complete.

Recommendation 14.1 CPS management should accelerate the effort to complete all sections of the CPS Policies and Procedures Manual.

8.0 Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to indicated findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2010, from:

- **Sacramento County Board of Supervisors**
- **Director of Health and Human Services**
- **Deputy Director, Child Protective Services**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, email the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

Survey of Independent Special Districts

By The Sacramento County Grand Jury

1. Summary

California's special districts are service-providing government agencies formed under state law. There are about 3,400 special districts in California, with about 100 in Sacramento County. They provide most of the local public services in this county. They fight fires, repair levees, provide water and maintain parks. They range in size from the River Delta Fire District with an annual budget of \$250,000 to the Sacramento Municipal Utility District with 2,100 employees and an annual budget of \$1.3 billion. While the names of these districts are probably known to most residents, their structures and governance are not well understood.

Some special districts are governed and managed by larger agencies, mainly cities and counties, or combinations of these in joint ventures. Other districts have their own elected boards of directors and operate autonomously. These are called independent special districts (ISDs) and are the focus of this grand jury's study. Thirty-one ISDs in Sacramento County were selected for inquiry and were sent a mailed questionnaire. These 31 ISDs serve the urbanized portions of Sacramento County. All of them responded and cooperated with this grand jury project.

The governance and operations of ISDs are nearly invisible to many citizens. They operate with little financial oversight or public scrutiny. That is because they are mostly smaller, single purpose organizations which do their important but routine jobs effectively without fanfare. Their functions and their elections do not evoke much media attention unless their services are interrupted, their rates increase, or an extraordinary problem arises.

The low visibility of most ISDs can be a source of problems and suspicions about the districts and their management. The grand jury's concern about some ISD management and governance practices arose from citizens' complaints, previous grand jury reports, state level studies of ISDs and numerous media reports. The issues addressed in this report relate to four areas of governance and management.

- District boards of directors' practices and policies
- District employees' pay and pensions
- District financial reporting and purchasing

- District oversight by the Sacramento Local Agency Formation Commission (SacLAFCo)

The grand jury used the information submitted by the selected 31 ISDs, where it was adequate and definitive, to assess these practices. Obviously, there are many differences among the studied ISDs regarding their terminologies, formats, and policies. There are no “cookie-cutter” model approaches to most district practices. However, each district hires and pays employees, purchases products and services, sets rates, and keeps accounts and records. There are also basic legal and regulatory requirements, ethical and business standards, and plain good-sense practices which apply to all ISDs. The grand jury calls attention to these benchmarks and good practices and departures from them.

Answers provided by ISDs to the grand jury questionnaire revealed the following:

- One-third of all ISD directors are initially appointed rather than elected
- Two-thirds of the districts are not conducting management audits
- Changes in ISD pension formulas in the last ten years have significantly increased pension awards
- Millions of dollars are being spent by the districts in uncompetitive purchasing
- SacLAFCo has completed only a few of the required Municipal Service Reviews
- Only 58% of the ISDs reported filing the required financial audits

Most of the findings and recommendations call for ISDs to review and improve their management and governance practices. One of the practices which needs improvement is the method of awarding pension benefits. The surveys reveal wide differences in pension awards with serious instances of compensation spiking and pension boosting. ISDs must work to ensure that employee benefits are responsible, fair and sustainable.

The final section of this report defines the oversight powers and role of SacLAFCo. SacLAFCo is the only “regulatory” agency with the power to approve special district functions, boundaries, and spheres of influence (extended areas of probable future service). SacLAFCo also has the power to assess whether each agency is efficiently and satisfactorily providing the public services for which it is responsible. In cases of district dysfunction, SacLAFCo has the power and responsibility to initiate corrective changes. It has not done so. SacLAFCo needs to strengthen its role and fulfill its responsibilities.

2. Foreword

California special districts are service-providing government agencies formed under, and enabled by state laws. There are numerous California enabling laws under which more than 3,400 special districts have been formed. Special districts are most commonly formed to provide essential and desirable public services in areas where such services are not provided by counties or municipalities. In fact, the majority of all public services in California and in Sacramento County are provided by special districts.

Special districts have, for a century, been vital components of Sacramento County's urban development. Outside the City of Sacramento, the county's urbanization occurred in dozens of communities and places deemed too small to incorporate as cities. As these unincorporated communities grew, their service needs were most often met by the formation of special districts charged with providing their service areas with a specific service, or combination of services. In recent decades several new cities have been formed in Sacramento County and the number of special districts in the county has plateaued, now being about 100. The new Sacramento County cities have each assumed operating responsibility for certain public services. But many enterprise services (i.e., revenue producing functions) have remained with Sacramento County (e.g., wastewater disposal), or with existing independent special districts. Examples of the latter situation are Citrus Heights Water District serving in the City of Citrus Heights, Sacramento Metropolitan Fire District serving most of the newly formed cities' residents, and Cordova Recreation and Parks District serving the City of Rancho Cordova.

There are many kinds of special districts, conveniently divided by type of service rendered, and type of political organization. Independent Special Districts (ISDs) are those that were formed (under state law) independent of any other political entity, and have a governing board whose members are elected by the voters residing within the ISD. Directors serve for a prescribed term, usually four years. There are some variations, but this common definition of Independent Special District is used herein. There are about 2,300 ISDs in California, including 63 in Sacramento County. These ISDs do a remarkably good job of providing essential services. One reason they do so is that their efforts and energies are sharply focused on the specific service(s) they are chartered to provide.

Most citizens know relatively little about the special districts which serve them and many take their services for granted. Not surprisingly, this relative "invisibility" can sometimes obscure district performance or political behavior that does not meet formal requirements or public expectations.

3. Reasons for This Survey

The Sacramento County Grand Jury became concerned about some management and governance practices of some of the county's ISDs. Concerns about potential inadequate or

inequitable practices have arisen from complaints to this grand jury, past grand jury investigations, and from news media reports. This project focused on ISDs because they often do not have the established resources and oversight mechanisms that dependent special districts have. The dependent special districts generally operate as subsidiary arms of counties or municipalities and their governing boards are, by law, drawn from, or appointed by, the boards of their “parent” agencies.

It was decided to include in this study a survey of all ISDs serving urbanized portions of Sacramento County. Thirty-one ISDs meet this criterion (Table 1). Excluded from this list were small reclamation districts, mainly rural, whose sole or main function is protection of agricultural lands from flood damage, school districts and joint powers authorities.

Table 1
Sacramento County
Independent Special Districts
Surveyed by the 2009-10 Sacramento County Grand Jury

1. American River Flood Control District
2. Arcade Creek Recreation and Park District
3. Arden Manor Recreation and Park District
4. Arden Park Recreation and Park District
5. Carmichael Water District
6. Citrus Heights Water District
7. Cordova Recreation and Park District
8. Cosumnes Community Services District
9. Del Paso Manor Water District
10. Delta Fire Protection District
11. Fair Oaks Recreation and Park District
12. Fair Oaks Water District
13. Florin County Water District
14. Fulton-El Camino Recreation and Park District
15. Herald Fire District
16. North Highlands Recreation and Park District
17. Orometumne-Hartnell Water District
18. Orangevale Recreation and Park District
19. Pacific Fruitridge Fire District
20. Rancho Murieta Community Services District
21. Reclamation District 1000
22. Rio Linda/Elverta Community Water District
23. Rio Linda-Elverta Recreation and Park District
24. River Delta Fire District
25. Sacramento Metropolitan Fire District
26. Sacramento Municipal Utility District
27. Sacramento Suburban Water District
28. San Juan Water District
29. Sloughhouse Resource Conservation District
30. Southgate Recreation and Park District
31. Wilton Fire Protection District

This survey is not comprehensive; it focuses on selected issues. Concerns about management and governance fall into several categories. In question form, they include the following:

District Boards of Directors

- Do ISDs have adequate by-laws or rules of procedure to govern the conduct of district business and meetings of the boards of directors?
- Are appointments to director positions used to avoid open elections?
- Is there enough turn-over of ISD directors to ensure vigor, innovation, independent judgment, and fresh ideas? Should there be some form of term limits?
- Are ISD directors' pay and benefits equitable and transparent? Do directors enjoy any district-paid health or retirement benefits?
- Are ISD boards obscuring important but sensitive matters by approving them on consent calendars? Are executive pay decisions made by consent calendar?

District Employee Pay and Pension Practices

- Are pay or rank increases granted for superficial diplomas, degrees, or certificates?
- Are pension increases granted for short-term or unusual (non-universal) increases of final compensation ("compensation spiking" and "pension boosting")?
- What are recent actual pension awards compared to a "baseline" pension award based on actual base salary and a common pension formula?
- What trends in pension awards are evident and need further scrutiny?

Financial Reporting and Purchasing

- Has the district filed each year, complete and timely, the state-required Financial Transaction Report?
- Has the district filed each year, complete and timely, the state-required annual Independent Financial Audit?
- Have regular and substantive management audits or reviews been completed by an independent professional auditor?
- What percent of the total cost of purchased goods and services were purchased without competitive bids or from other than the lowest bidder?

- Do district employees or directors accept any goods, meals, services, travel, or entertainment from vendors or providers (past, present or prospective)? Are there appropriate rules governing gratuities?

ISD Oversight by Sacramento Local Agency Formation Commission (SacLAFCo)

- Have SacLAFCo Municipal Service Reviews (MSRs) been completed for each district?
- Has SacLAFCo taken appropriate initiative to correct ISD inadequacies, and eliminate unneeded non-operating ISDs?
- Can SacLAFCo improve public information and public understanding of information about special districts?

4. Survey Method

The 31 selected ISDs (Table 1) were surveyed with a questionnaire mailed to each of the districts' chief executive officer. While it was recognized that a common questionnaire cannot address all the many differences among the surveyed districts, it was useful to:

- Obtain a broader, more balanced knowledge of where problems may be occurring.
- Note differences from norms which might warrant more attention.

To their credit, all of the surveyed ISD executive officers responded to the grand jury survey. Thirty-one questionnaires were sent; 31 replies were received. There were differences in completeness of the replies, but all replies represented the districts' major efforts to be responsive. The questionnaire replies were reviewed, then data were written on forms from which spreadsheet inputs were made. Most of the results and findings presented below used this data bank.

Disclaimer: In this report, the numbers of ISDs, directors or retirees are not always the same in all the figures shown. They vary because of incomplete data provided by the ISDs. Some ISDs provided answers to all the questions; some did not or provided obviously incorrect data. The decision was made to use only data that appeared to be correct. In some cases, the numbers were different because the comparison only included a given subset of the total (e.g. public safety retirees or miscellaneous retirees).

5. Background and Facts

Information obtained from the survey of Sacramento County ISDs and other sources was used to prepare this section. It is presented in generally the same order as the issues outlined

above. For each issue the background and focus of this report are explained, and the facts and findings of the project are presented.

5.1 District Boards of Directors

Governing boards of elected directors are critical to the effective functioning of ISDs. In general, these directors are residents of the districts and are elected by the voters in the district for specified terms (usually four years) as set forth in the ISD enabling law. The size of the ISD boards varies; most commonly there are five directors. Several models of director representation are used by ISDs. Most commonly they are either (1) all directors elected at-large to serve either at-large or to represent delineated zones of the ISD (usually termed districts or wards), or (2) elected by voters in wards to serve those wards. The latter model is usually preferred by local ethnic or interest groups as it maximizes their chance to be better represented. In the past few years some at-large elections have been successfully challenged for violating the California Voting Rights Act of 2001. More challenges are pending. When a board seat becomes vacant, an ISD board has the option of leaving the seat vacant, if a general election is scheduled within a few months time, or appointing a new director, or doing nothing (e.g., a political impasse), in which case an appointment can be made by the county board of supervisors.

Every ISD is required by law to have a formally adopted set of by-laws or rules of procedure to establish its responsibilities and procedures and govern its conduct and governance process. All of the ISDs surveyed for this project have adopted by-laws or rules of procedure, but some are outdated and some inadequate. Good practice would dictate that every ISD should have by-laws drafted with the help of an attorney experienced in public agency law, and should periodically review and update their by-laws.

Accusations of unconstructive behavior or dereliction of duty by directors are common. This grand jury received complaints regarding such behavior at ISDs. District directors must comply with the California Ralph M. Brown Act²⁹ (open meeting law) and basic rules of diligence and behavior, and provide penalties or impeachment for violation of these rules. District counsels and general managers can be helpful in identifying potential violations of the by-laws.

Other grand jury studies have shown a surprisingly high percentage of appointed versus elected directors in some ISDs. Understandably, this raises the questions of whether director appointments are being used to avoid open and fair elections, and whether incumbents are strategically resigning their seats before elections to aid the selection of their cronies, who

²⁹ http://www.ag.ca.gov/publications/2003_Intro_BrownAct.pdf

thereby gain incumbency and usually safe tenure. In this survey, the percentages of all 209 directors, sitting on ISD boards in the last decade, who were originally appointed, are:

All surveyed ISDs.....33 % appointed

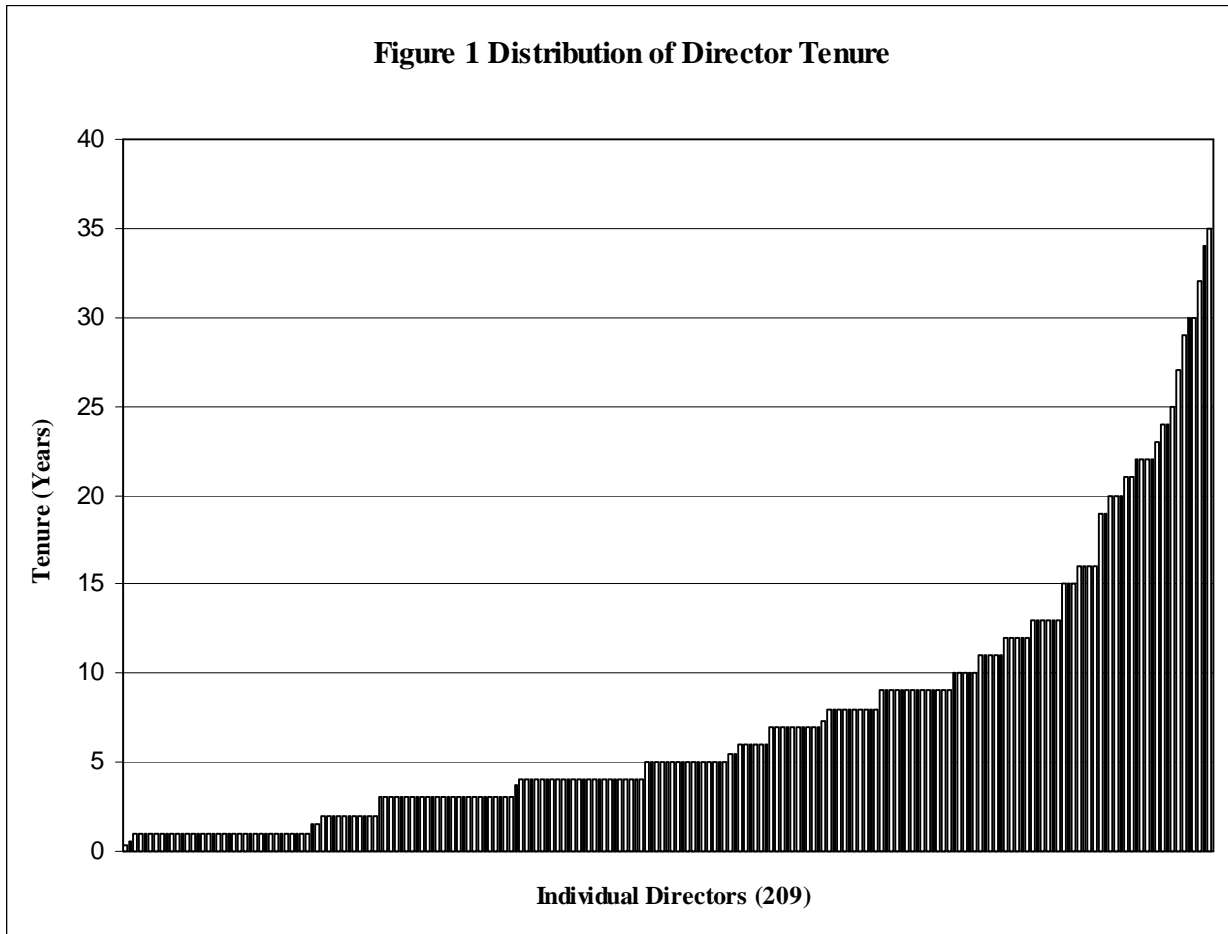
Water districts..... 28 % appointed

Fire districts..... 39 % appointed

Corresponding director appointment data for Sacramento County were reported in 2000 by the state Little Hoover Commission.³⁰ Water district director appointments have improved (28%, down from 43% in 2000), but fire district appointments have gone up (39% from 36% in 2000). The appointment percentages could be further reduced, and the competition for open director seats (both elected and appointed) increased through enhanced public information efforts. Only half of all Sacramento County ISD director seats were filled by contested elections.

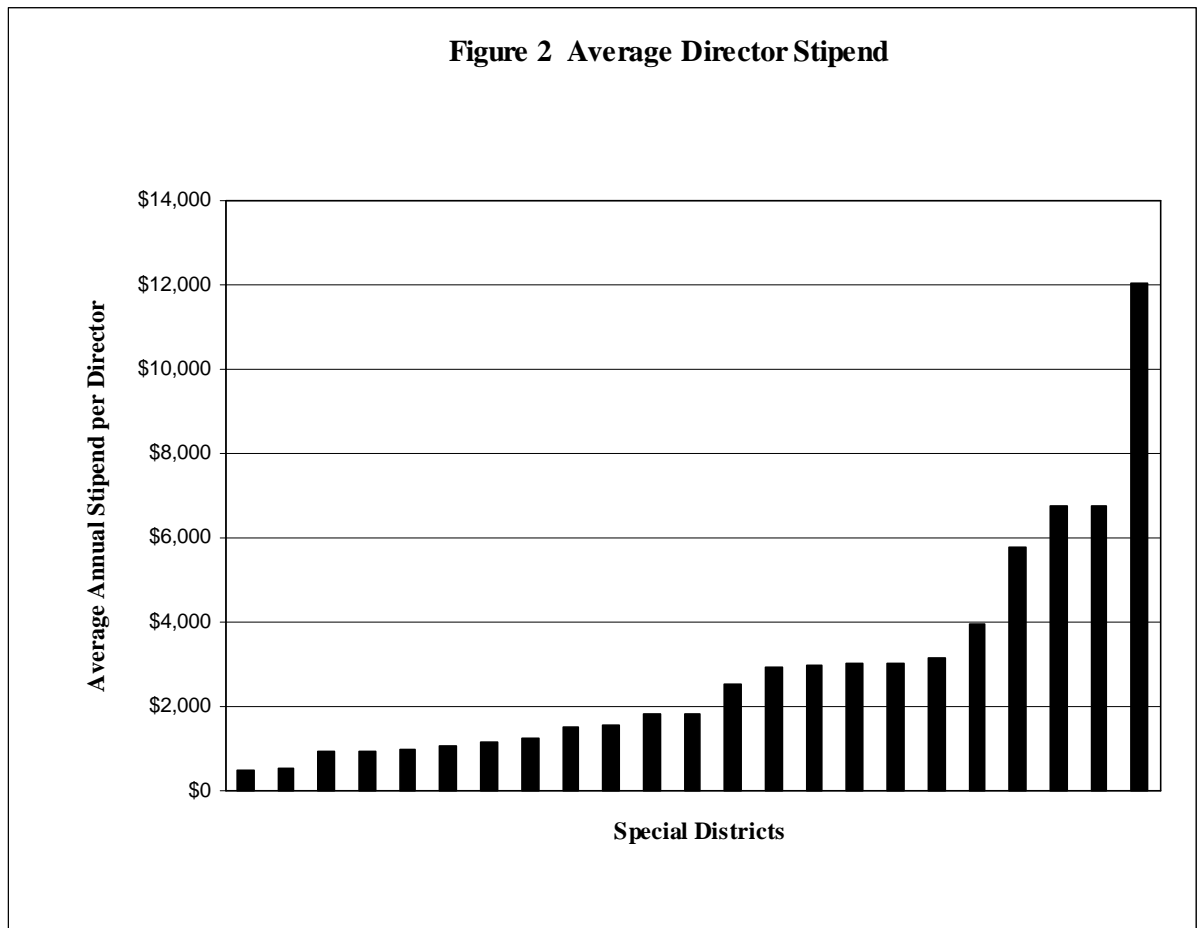
A parallel concern about ISD directors is whether there is enough director turnover to ensure vigor, innovation, and fair representative governance. Figure 1 shows the distribution of tenure among all surveyed ISD directors who occupied seats in the last decade for whom adequate information was available. Median tenure was 5 years, and the maximum 35 years. Ten percent of this group of directors has served at least 20 years, and most of them are still serving. As with any term limits debate, there are pros and cons for limiting ISD director tenure. The objective here is to stimulate discussion of whether communities would be better served by limiting ISD director tenure.

³⁰ "Special Districts: Relics of the Past or Resources for the Future?" May 2000, California Little Hoover Commission.



ISD directors' compensation and benefits vary considerably. As mentioned earlier, no employee-like benefits (e.g., pensions or health insurance) are known to be granted to current directors. The most common directors' compensation, which is the largest directorial cost for most ISDs, is directors' meeting stipends. Among the surveyed ISDs such stipends vary from zero to \$12,056 annually and most pay stipends for only one meeting per day. The median annual directors' stipend is \$1,839. Figure 2 shows the distribution of average annual directors' stipends. Each bar in the figure represents one ISD. Most boards set their own stipends, usually with an eye on the practices of similar districts. In the survey the reported average annual cost (including stipends and expenses) per director was \$3,803, and the median cost was \$1,976. Most ISD directors are undercompensated for the effort and value they contribute.

Most complaints about ISD director costs in recent years have been aimed at travel and entertainment expenses. It is clear that some ISDs (e.g., some larger districts and some water districts) became complacent about entertainment and other unnecessary board expenses.



The principles of propriety and proper cost control are simple. They are:

1. All directors' expenses and reimbursements should be budgeted and individually approved by the full board.
2. Expenses should be incurred only by board members (not guests), and should be limited to documented necessary expenses of reasonable participation in scheduled, approved professional activities.

3. If meals, entertainment, or other services are accepted from other persons or entities, they should be limited, transparent, and consistent with state law and written policies of the board.

The California Political Reform Act (Government Code Sec. 81000), which created the state Fair Political Practices Commission (FPPC), imposes strict limits on gift acceptance and reporting by public officials. Gifts over \$50 (per source, cumulatively) per half-year are reportable on FPPC Form 700, and gifts are prohibited from exceeding \$420 per calendar year (in 2010). There are numerous other restrictions in the FPPC “fine print.” Form 700 is filed twice per year by each official. FPPC penalties and exposure for improper filing are severe, and have effectively limited improper political gift giving.

Consent items are included on the board meeting agendas of almost all the surveyed ISDs. Consent items usually encompass a few or several sub-items which all get approved with one vote when the consent item is adopted. The consent item procedure is an efficient way for a board to act on items of business which are small in impact and, generally, have been vetted by a board committee or workshop before the formal board meeting. Good practice, which is followed by most but not all ISDs, puts these limitations on the use of board agenda consent items:

1. The consent item process and limitations are specified in the ISD by-laws.
2. Consent items and sub-items are documented in the agenda packet.
3. Any director can unilaterally remove any consent item or sub-item.
4. Consent items should be limited in dollar value.
5. No executive or director compensation decisions should be made by consent item.

In this survey not all ISDs comply with these practices. Management and legal counsel can help review and revise policies regarding use of consent calendars.

5.2 Financial Reporting and Purchasing

Independent special districts, as the adjective “independent” implies, are highly autonomous entities which operate with little financial oversight or scrutiny. ISDs are required by California law to submit two financial reports each year to the California State Controller. These two reports are the Financial Transaction Report and the Independent Financial Audit report. Other matters discussed in this section are management audits and no-bid purchasing.

5.2.1 Financial Transaction Report

Filing the Financial Transaction Report is required by California Government Code Section 12463. This is a highly formatted report, with the format provided by the state controller.

The reporting special district simply fills in the blanks. This allows all districts to present their information in a uniform, consistent manner and reduces the controller's workload. The controller is able to spot anomalies quickly and easily by comparing current reports with past reports and by comparing current reports between like districts.

There are two forms of this Financial Transactions Report, one for enterprise districts (financed by user fees) and another for non-enterprise districts. They differ in detail, but each demonstrates whether or not the district is solvent. Enterprise districts report operating and non-operating revenues, operating and non-operating expenses, and profit or loss. Non-enterprise districts report revenues, expenditures, financing sources, and whether or not the combination of revenues plus financing sources exceeds expenditures.

A district which fails to file a timely report can be punished, per California Government Code Section 53895. Failure to file a timely report results in a fine of up to \$5,000, and the case can be referred to the California Attorney General for action. If a district files an erroneous report, the controller may commission an audit of the report and the district will be responsible for the cost of the audit, per Government Code Section 12464.

Financial Transaction Reports for each special district are available on the California State Controller's web site³¹ back to Fiscal Year 1995-96. Each of the districts in this survey has filed timely reports, according to the web site.

5.2.2 Independent Financial Audit Report

Filing this report is required by California Government Code Section 26909, and must be submitted within twelve months of the close of each special district's fiscal year. This report must be prepared by a Certified Public Accountant (CPA), an accredited accounting firm, or a county auditor. The report goes into much greater detail than the Financial Transaction Report, reporting on more than profit and loss. It assesses a district's overall financial health and its likelihood to stay in business, and makes recommendations for improving its financial governance. It notes trends and other factors beyond the district's control which may affect its financial future. By its nature, this report is not conducive to being completed by filling in the blanks.

Thirteen of the thirty-one surveyed districts indicated they had not filed this report, or did not respond to the question. Although filing the report is a requirement, there is no penalty for failure to do so, and there is no penalty for failure to file a timely report. This report is not included on the California State Controller's web site.

5.2.3 Management Audits

Performance of periodic management audits is important to the health of any organization, whether it is a small business, large corporation or a government entity such as a special

³¹ http://www.sco.ca.gov/ard_locarep_districts.html

district. It is troubling that twenty-five of the 31 districts surveyed have not had a management audit during the past five years or did not respond to the question. Management audits are normally performed by a multi-disciplinary team and are often headed by a management consultant. These audits, when done properly, are comprehensive and thorough examinations of a district's management and governance, and answer such questions as:

Do the district's management and employees understand the district's mission?
Are the employees adequately trained?

Are employees fairly compensated with wages and benefits?

Are taxpayers' funds spent wisely?

For enterprise districts, are customers getting their money's worth?

Are there better, more efficient ways of providing service?

5.2.4 No-bid Purchasing

Sixteen of the 31 districts surveyed in this study did not respond to the questions about no-bid purchasing. Five districts reported 25% or less of their purchase amounts were made without competitive bidding. The remaining ten districts reported more than 25% of their purchases were made without competitive bidding. For the five-year period of this survey, these ten districts spent more than \$200,000,000 without competitive bidding, an average of more than \$40,000,000 per year of taxpayer or utility customer funds. A significant portion of these amounts may have been spent for utility services, emergency construction and other items where no-bid purchasing was appropriate.

5.3 District Employee Pay and Pension Practices

It is a universal truth that, to provide high quality services over the long term, ISDs must attract and retain high quality employees and must compensate them fairly. In our society, fair compensation of public service employees includes good health care insurance and attractive pensions. Until recent years, some ISDs warped the definition of employee benefits to include district directors. Most people now believe that it is poor public policy to pay employment benefit rewards to directors or other citizen politicians.

5.3.1 Rewards for Training and Education

The 2008-2009 Sacramento County Grand Jury investigated payment of monetary rewards to county special district employees for obtaining educational degrees and certificates. At least half of the ISDs surveyed in this study currently have some form of economic incentives for learning achievements. Most of these programs are valuable, rational, and moderate, but, up to 2009, some gave monetary awards for superficial degrees. These commonly called "diploma mill" degrees are issued without rigorous

training by private for-profit institutions, often with the terms “university”, “college”, or “institute” in their names. Private postsecondary training is a huge business in our country and proportionately larger in California. It is growing rapidly because of the surge of computer-based remote teaching (“distance learning”), and the ease of obtaining superficial degrees. The high pressure recruiting practices of some for-profit educational organizations are well documented. This report is concerned with their academic value.

It is important that each public agency evaluate employees’ certificates before they are accepted as prerequisites for hiring, compensation or job promotions. Cost reimbursement (or direct sponsorship) of the cost of bona fide education is commendable and constructive. Educational prerequisites for job and salary advancements are effective and well established. However, direct economic rewards (such as bonuses or one-time cash payments) are of questionable value and can lead to diploma mill abuses.

Broadly stated, there are three ways that legitimate degrees and certificates can be recognized by agencies for hiring and advancements:

1. Accredited postsecondary degrees: Accreditation of degree issuing institutions is done by national accrediting agencies or commissions. Acceptable accrediting agencies are recognized by the U.S. Department of Education, Office of Postsecondary Education (OPE). There are “accrediting” organizations that are not recognized by OPE. Good management policy dictates that degrees/certificates be recognized only if granted by a higher education institution accredited by an OPE recognized accrediting agency.
2. State approval of private postsecondary institutions: After years of substandard private postsecondary regulation in California, AB 48 was signed by the governor in October 2009, creating the California Bureau for Private Postsecondary Education (BPPE). The new BPPE approval process now provides oversight and conditions for acceptance of degrees and certificates from non-accredited educational organizations.
3. Professional and trade certificates that are mandated, regulated or recognized by state law: There are many forms of such requirements. They vary from professional practice licenses (e.g., health practitioners, engineers, etc.) to certificates required for protection of public health and safety (e.g., water system operators). There are dozens of such required certifications. All are regulated by the State of California, and all carry reasonable assurance of their appropriateness and adequacy.

Good practices require that each ISD periodically review its education-based requirements for conformance with the above principles. If in doubt, the agency can obtain the expertise of a postsecondary education consultant to maximize value and avoid abuse.

5.3.2 Pension Awards

Public agency pensions and other retirement benefits are a large and growing burden on public resources. There is much current discussion and debate about the magnitude and management of these benefits. Recently, several efforts have been made to change benefits policies. This report focuses on only a few aspects of the entire pension/benefits dilemma.

Most Sacramento County ISDs are member agencies of the California Public Employee Retirement System (CalPERS). Accordingly, some 95% of the ISD employees addressed in this study are employee members of CalPERS. CalPERS' main functions are to operate the world's largest fixed-benefit state employee pension program, and to manage a complementary health care insurance program to which Sacramento County ISDs can subscribe. Health care is the largest component of retirees' non-pension benefits which, collectively, are usually termed "other post-employment benefits" (OPEB). This report does not focus on the CalPERS health care program or its funding, though clearly it is of great importance and great public policy concern because of rapidly rising health care costs and retiree longevity. CalPERS applies similar management, actuarial, and funding principles to its OPEB and its pension programs. However, such protections are not universal among public OPEB plans.

A fixed pension benefit is one which is determined by an agreed formula applied to all like members of a group or pool at the time of each employee's retirement. The CalPERS pension pools are financed by a fixed contribution by each member employee (generally 7% of miscellaneous compensation; sometimes paid by the employer on behalf of the employee), and a variable contribution by the employer agency. The employer contribution is varied according to a CalPERS "smoothing formula" which is designed to maintain a stable long-term balance in the pension funds and avoid risky levels of unfunded liability. Each employer contribution is evaluated annually, and revised as needed.

Unfunded liability of a benefit fund is a valuable indicator of the long-term fiscal health of a benefit program. This parameter is formally termed the "unfunded actuarial accrued liability" (UAAL). Unfunded liability is a useful indicator only if the concept is precisely defined and carefully used. For this study, unfunded liability of the pension pools is defined as:

The present value of an actuarially anticipated long term series of contractually obligated benefit payouts minus the present value of fund assets and an anticipated series of contributions and earnings.

Present values of future pension fund earnings and obligations are calculated using assumed earning and discount rates (usually the same rate for both). The annual rates currently used by CalPERS are 7.75%. Some economists point out that calculated unfunded liability is very sensitive to this assumption, and that using a more current, more conservative discount rate could raise CalPERS unfunded liability several-fold.

The “funded ratio” of a benefit fund is the ratio of these two defined series; i.e., the percentage of anticipated fund obligations that is covered by anticipated assets and income. In recent years CalPERS’ overall unfunded liability has ranged from about \$20 billion to a current amount of about \$40 billion. Its funded ratio has varied in recent years from a high of 118% to a current low of about 87%. The funded ratio is an important measure of benefit fund health. It is not as volatile as the unfunded liability. Most benefit fund professionals believe that a funded ratio below about 80% is reason for concern. CalPERS has always exceeded this criterion.

There are many assumptions that go into these complex funding calculations. The resulting unfunded liability (expressed as dollars or funded ratio) can vary markedly with these assumptions. All actuarial and economic assumptions are evaluated by CalPERS at intervals not exceeding three years. Large variations of CalPERS unfunded liability also occur because of investment market conditions, number of public employees, and benefit enhancements. Recent unfavorable changes in all these variables have led to the doubling of CalPERS’ unfunded liability, and to major increases of required employer contributions. More increases of both are expected. This phenomenon has been termed by California’s governor as a “freight train” and “the single biggest threat” to California’s future, and by the CalPERS chief actuary as “unsustainable.”

This report looks only at the CalPERS pension programs to which most ISDs subscribe. Although many citizens and many public policy pundits believe that public employee pensions are too generous and are unsustainable, the grand jury makes no judgment on these basic questions but looked closely at pension award trends and fairness, especially pension “spiking” and “boosting”. These terms are vernacular for pension increases granted for short-term or unusual (non-standard) increases of employee final compensation upon which a lifetime benefit is computed. This report uses similar terms in very specific ways:

“Compensation spike” is the CalPERS’ reported final pensionable compensation divided by the retirees’ next to last year basic salary.

“Pension Boost” is CalPERS’ unadjusted initial pension award over a calculated baseline pension amount.

CalPERS, and other public employee pension plans, recognize the unfairness and seriousness of compensation spiking and are trying to control it. CalPERS disallows the inclusion of overtime pay in pensionable compensation, and it has a compensation auditing program whose function is to catch retiree compensation violations or errors by ISDs and other member agencies. CalPERS recognizes that its rules and its auditing program need improvement and is trying to make improvements. Many of the details of pension formulas

and spiking rules are prescribed by state law and are beyond CalPERS' direct control or influence. As California's benefits funding crises loom larger, more agencies and interest groups, including the ISDs, will demand reform.

There are many ways that a retiree's final pensionable compensation and pension can be spiked. Some of these are plain cheating, but more are legal although they may represent poor public policy. Each CalPERS member agency selects the desired pension formula from a list of options. In the last decade, there has been a trend toward selecting higher pension formulas (higher percent per year payouts) and calculating pensions on the retirees highest 12 months of compensation rather than 36 months. In the last decade, the surveyed ISDs that base final compensation on 12 months increased from 33% to 67%. This change not only invariably increases the pensionable compensation but also makes it more likely that compensation gimmicks can be used to spike pensionable compensation. In 2006, in an effort to call attention to the pension boosting issue, the Sacramento County based watchdog organization Peoples Advocate published a booklet "30 Ways To Spike Your Pension". This booklet and other similar testimony was scoffed at, but not refuted, in testimony at a May 2007 hearing of the California Governor's Public Employees Post-Employment Benefits Commission (the Parsky Commission). The commission's December 2007 final report, Funding Pensions & Retiree Health Care for Public Employees, made 34 specific recommendations addressing every aspect of retiree benefits funding. Most of these recommendations await implementation.

Sacramento County ISDs that are members of CalPERS pension plans have elected a variety of pension formulas for their employees. Their current pension formulas are listed in Table 2, and their distribution is shown on Figures 3 and 4. ISDs that have both public safety employees (e.g., fire fighters, police, and some others) and miscellaneous employees (all other employees) have both pension formulas listed. The listing format is 2.0% @55 (36 mos.). This means the retiree is entitled to a basic (unadjusted) pension of 2.0% of highest three years pensionable compensation per year of service time if he/she retires at age 55. Retirement at a different age results in an up or down adjustment.

Table 2 CalPERS Retirement Formulas

Special District Name	Miscellaneous Employees	Public Safety Employees
American River Flood Control District	2.0% @ 55 (12 months)	
Citrus Heights Water District	2.0% @ 55 (12 months)	
Cordova Recreation and Park District	2.0% @ 55 (12 months)	
Cosumnes Community Services District	2.5% @ 55 (12 months)	3.0% @ 50 (12 months)
Del Paso Manor Water District	2.0% @ 55 (12 months)	
Fair Oaks Recreation and Park District	2.0% @ 55 (12 months)	
Fair Oaks Water District	2.0% @ 55 (36 months)	
Fulton-El Camino Recreation and Park District	2.0% @ 55 (12 months)	
Herald Fire District	2.7% @ 55 (36 months)	3.0% @ 55 (36 months)
Rancho Murieta Community Services District	2.0% @ 55 (12 months)	
Reclamation District 1000	2.0% @ 55 (12 months)	
Rio Linda/Elverta Community Water District	2.0% @ 55 (36 months)	
Sacramento Metropolitan Fire District	3.0% @ 60 (12 months)	3.0% @ 50 (12 months)
Sacramento Municipal Utility District	2.0% @ 55 (36 months)	
Sacramento Suburban Water District	2.0% @ 55 (36 months)	
San Juan Water District	3.0% @ 60 (12 months)	

Figure 3 Retirement Percentage

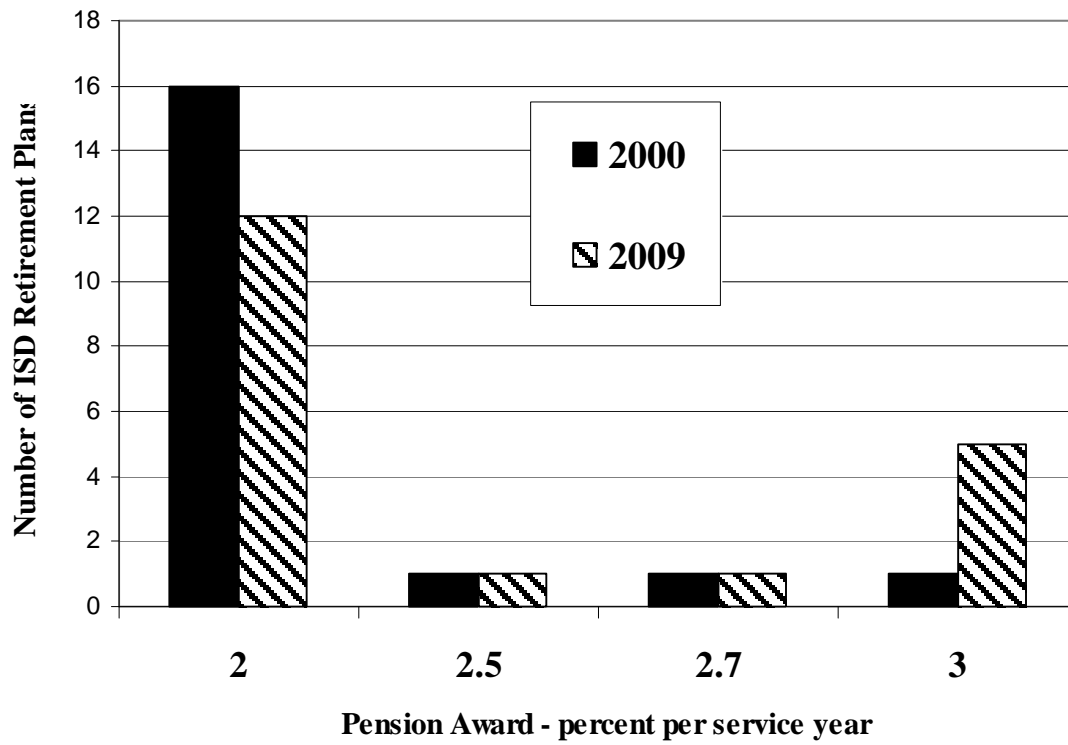
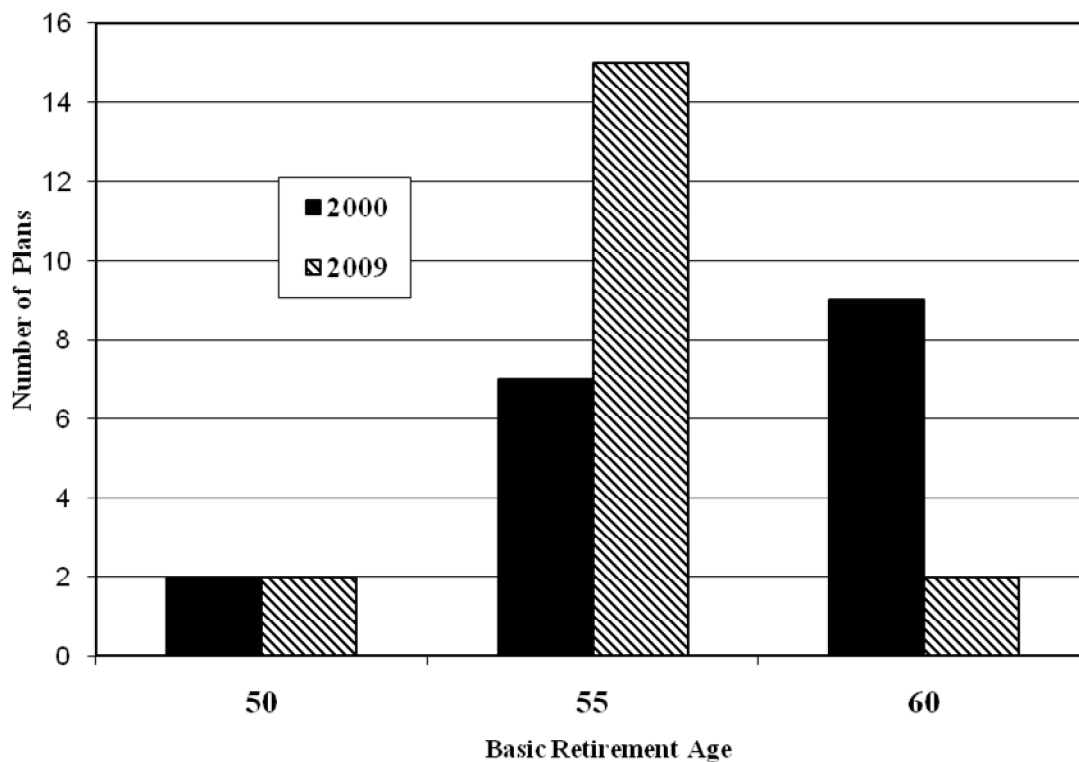
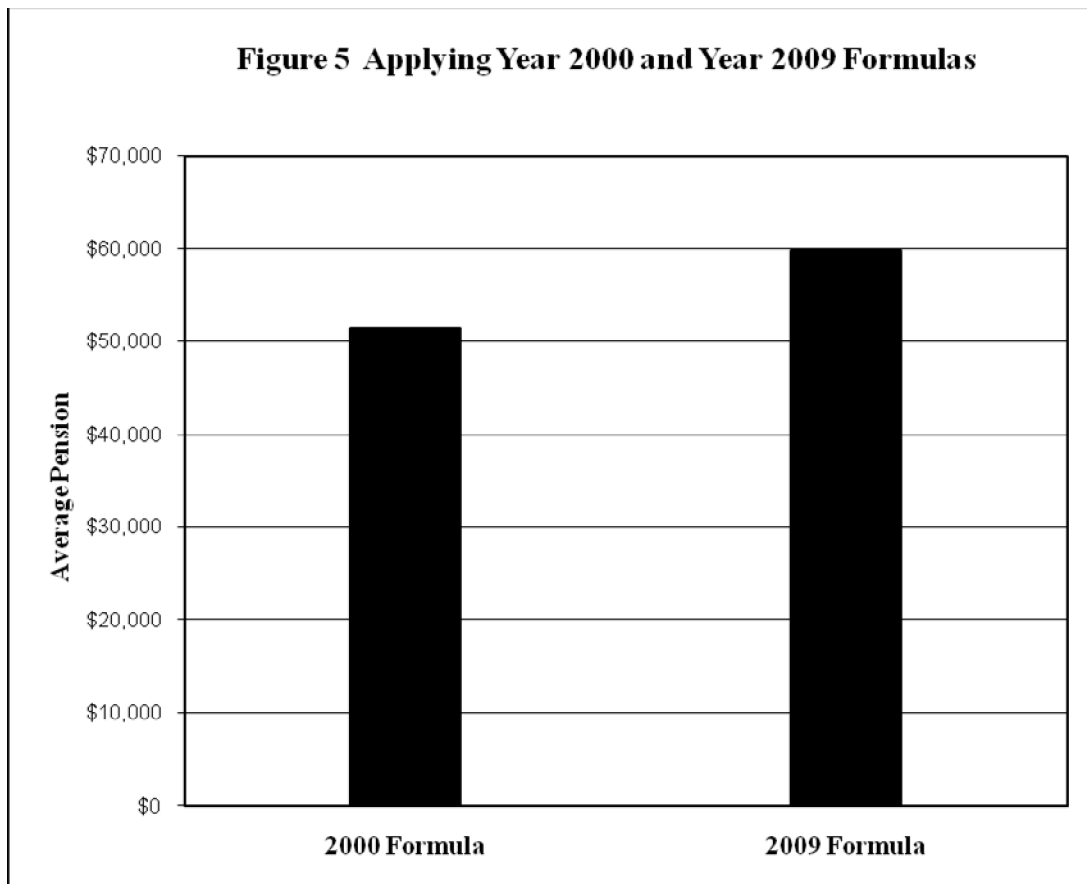


Figure 4 Basic Age Factor Distribution



The pension formula changes in the past decade have significantly increased pension awards. Figure 5 shows the overall average awards calculated with the actual 2000 and 2009 pension formulas for each ISD. Actual salary data and all other parameters for each retiree were unchanged. As a result of this trend, average initial pension awards for the ISD survey group rose from \$52,000 to \$60,000 annually, an increase of 15%.

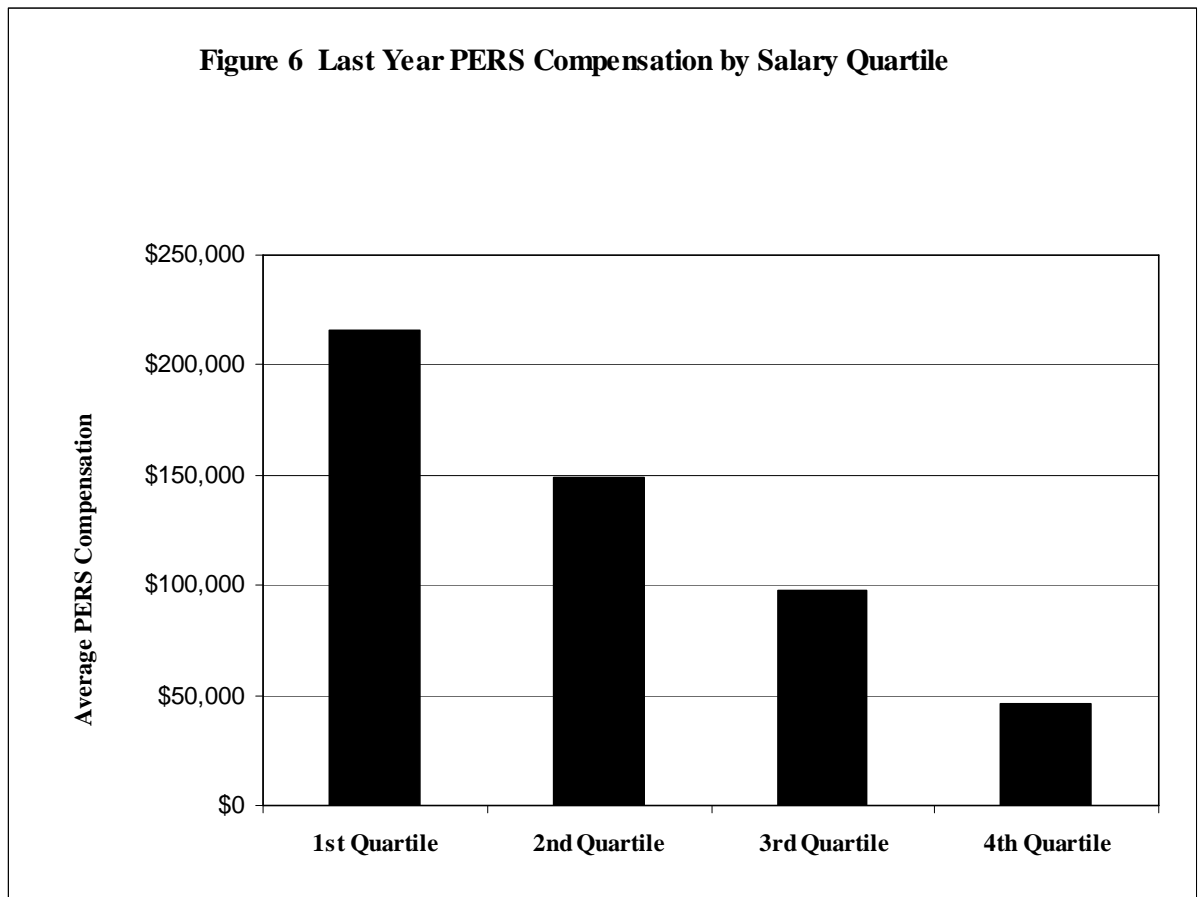


Public safety retirement pension formulas are, on average, significantly higher than other public pension formulas. Public safety employees also retire at younger ages, a traditional consequence of their hazardous and strenuous jobs. Most public safety employees' pensionable compensation amounts include more than basic salary due to more liberal provisions in their negotiated contracts. These differences lead, on average, to larger spikes in public safety employees' pensionable compensation.

In this limited study, pension data for about 100 retirees from Sacramento County ISDs for the past decade were reviewed. Data for 58 retirees from 17 ISDs were used for the calculations made in this study. Data for a maximum of 10 retirees from each of 29 CalPERS member ISDs were requested. Some of these ISDs had no retirees; some had more than 10. Obviously there are big differences in salaries and the retirement circumstances and awards among these retirees. Salary distribution (by quartiles of the total retiree group) for this group is shown on Figure 6. This report does not provide retirement data for individual retirees or ISDs; such information is confidential.

Salary quartiles are determined as follows: All retirees were ranked in order of salary. The retiree with the highest salary made \$388,000 and the lowest made \$27,000. The top 25% of

the retirees was defined as the 1st quartile, the next 25% was defined as the 2nd quartile, and so on. The salary distributions within each quartile are shown in Figure 9 and the average salary per quartile is shown in Figure 6.

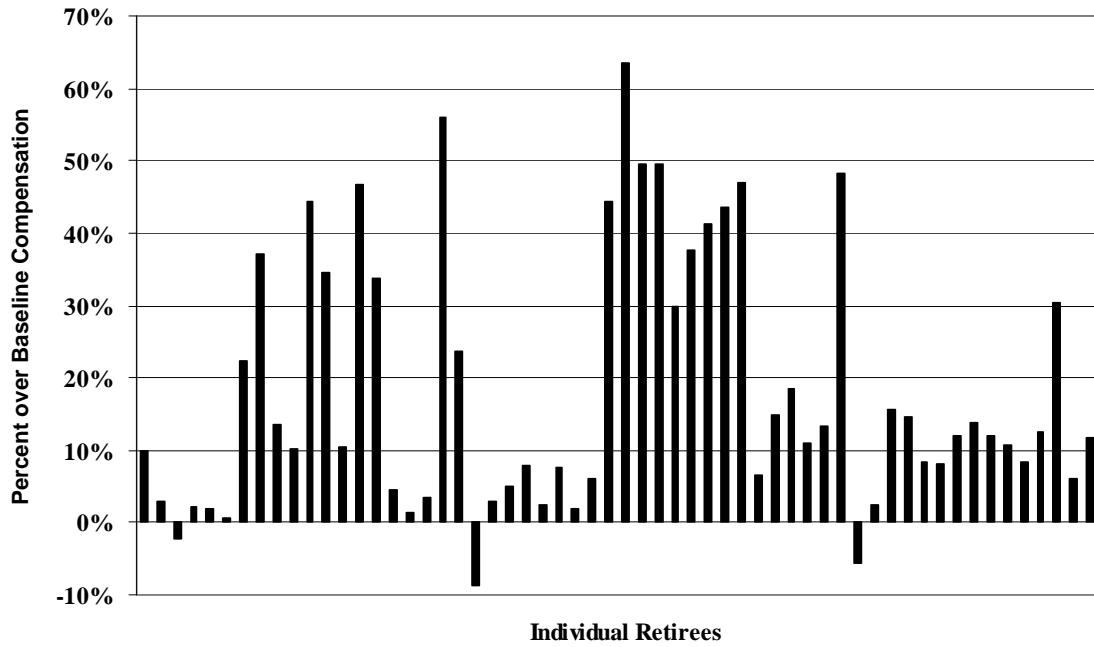


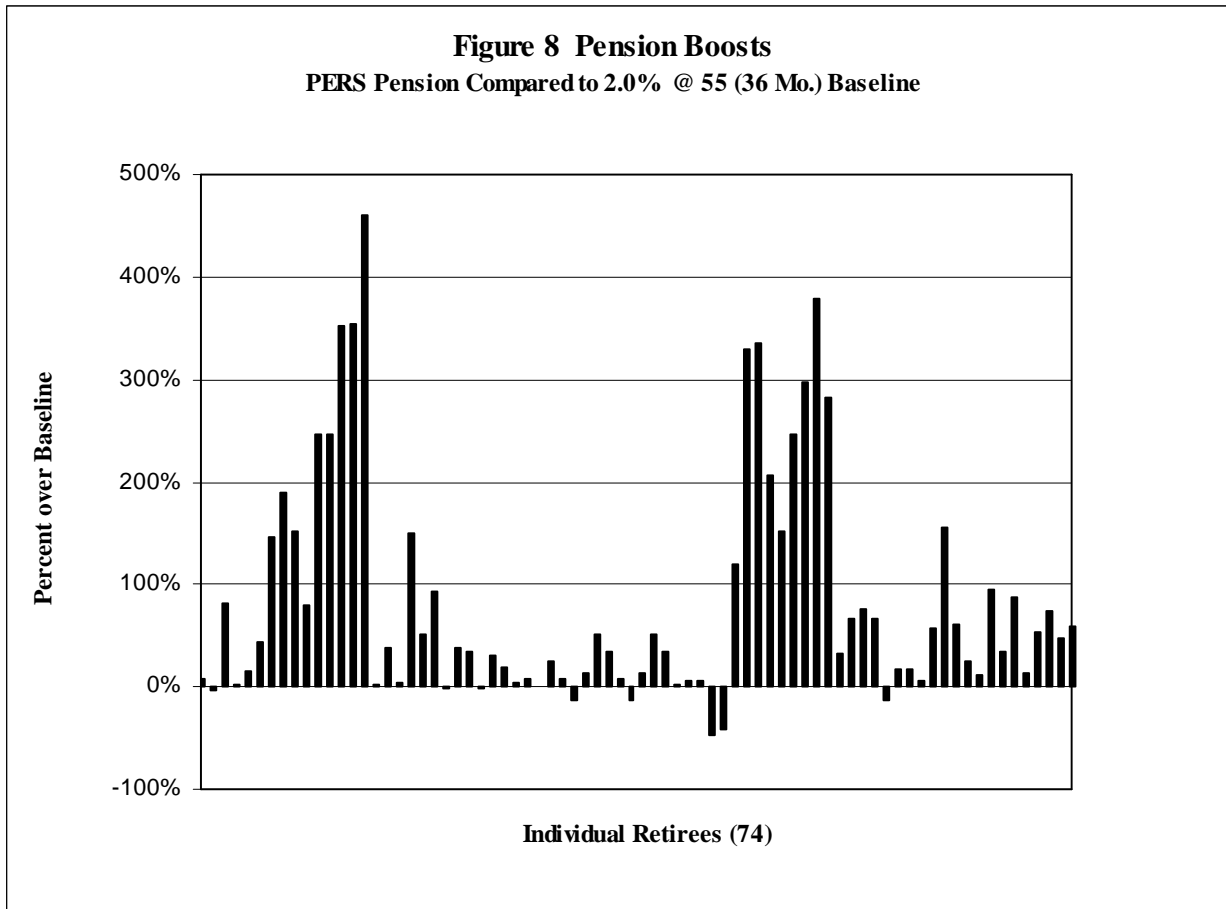
In an effort to show the magnitude of public pension differences in the sample, the study compared actual unadjusted pension awards by CalPERS to a calculated baseline pension amount. The baseline pension formula used in this study is 2.0% @55 (36 mo.) with applicable retirement age adjustments. A pension award percentage of 2.0% is used because that is the most common miscellaneous pension basis, covering 83% of the ISDs (it was 75% a decade ago). (See Figure 3) A basic age factor of 55 years old is used as the baseline for this analysis because it is the age factor used by 92% of the miscellaneous ISDs and is now the “norm”. (See Figure 4) A decade ago half of the ISDs used a basic age factor of 60 years. Obviously, lowering the retirement age factor has a major impact on retirement costs. If

employees retire at the same age as a decade ago, their average pension is increased by as much as one-third. Or, if they retire earlier as permitted by the lowering of the age factor, they will receive pension payments longer. In any event, the strong trend toward lowered age factors in CalPERS pensions, while employees are living longer and healthier, is a major reason for rising pension obligations at this time of diminishing public resources. A baseline highest compensation period of 36 months is used even though the majority of the ISDs now use 12 months. It is well known that a shorter final compensation period leads to more pension boosting, and several legislative attempts have been made to mandate a 36-month basis. It is prudent to use the multi-year compensation period and this report shows its impact on pension awards. The selected baseline pension formula is simply a rational basis of comparison.

Using the defined pension baseline, the compensation spike and the pension boost (as defined above) was calculated for each retiree in the database. The individual results are shown on Figures 7 and 8. A small number of spikes and boosts are negative because the baseline formula is more favorable than the actual pension formula. Compensation spikes vary up to 63% and the median spike is about 12%. This amount of spike mainly reflects last-year increases in pensionable compensation compared to a 3-year level, and is not surprising. Higher spikes indicate that unfair or unethical advantage is being taken of the retirement system. Compensation spiking is the main component of pension boosts (Figure 8). Pension boosts in this sample go as high as 460%. Boosts that exceed the spikes, mainly result from more favorable pension formulas that have been selected to favor either public safety employees, or, in some cases, all employees.

Figure 7 Compensation Spikes
PERS Final Compensation Compared to Baseline Compensation





Most actual CalPERS unadjusted pension awards are greater than this study's baseline pension amounts. The percentage by which the actual pension award exceeds the baseline calculated award reflects pension increases that result from the ISD selection of a more generous pension formula, plus the impact of compensation spiking (increases in pensionable compensation in the final full year of employment). Both of these factors are important; they are not separated here. The percentage increase in actual over baseline pension is the pension boost, as defined earlier. Average percent compensation spike and pension boost for retirees at different salary levels (by salary quartiles) are shown in Figure 9. Average percent compensation spike and pension boost for public safety and for miscellaneous retirees are contrasted in Figure 10. The resulting pension amounts are shown on Figure 11. The huge impact of more liberal public safety pensions is obvious. Average public safety pensions were more than twice as much as average miscellaneous employee pensions. Whether this difference and its impact on public agency finances are appropriate is an ongoing policy debate.

Figure 9 Pension Boost and Compensation Spike By Salary Quartile

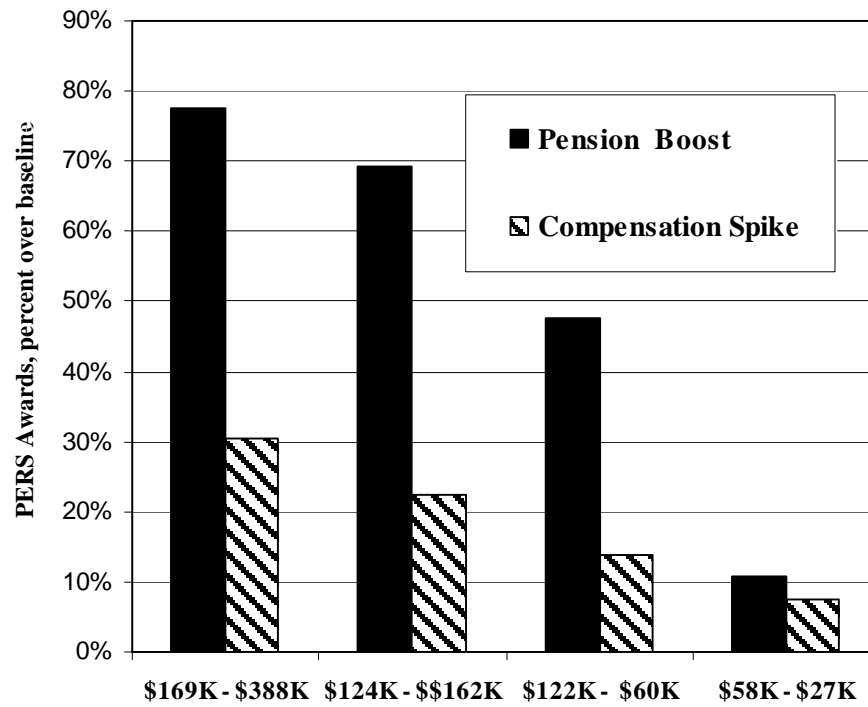
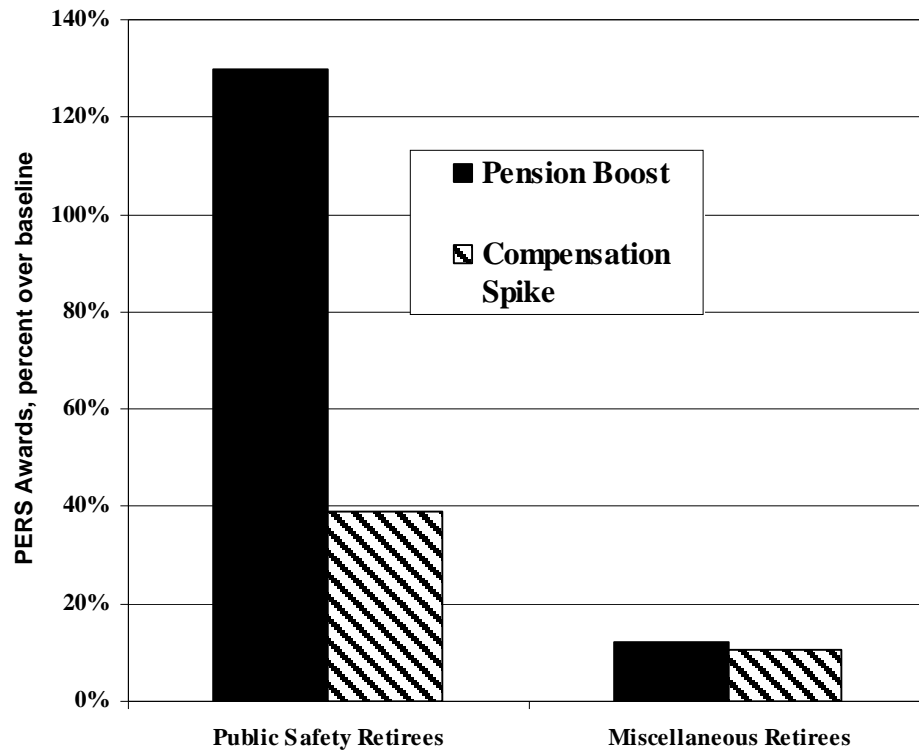
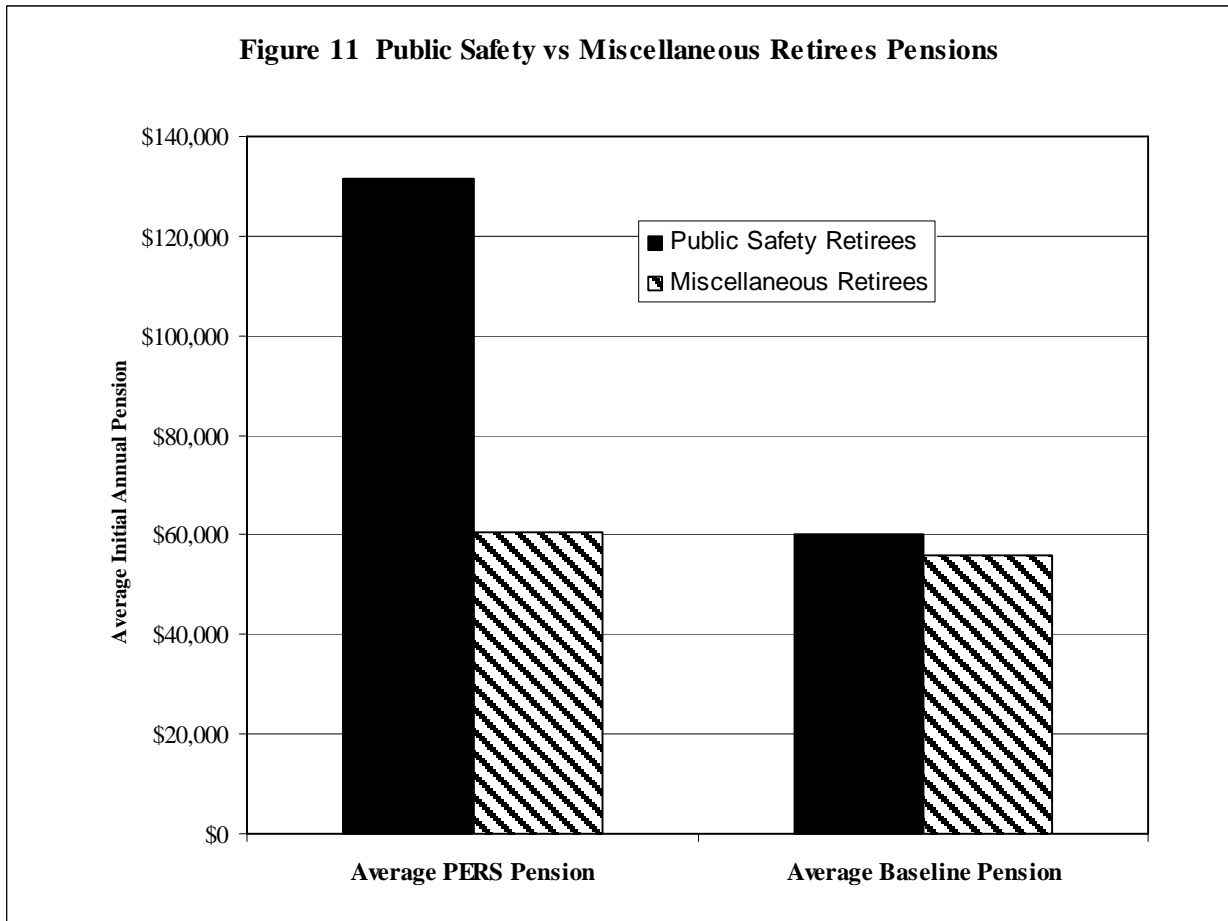


Figure 10 Average Pension Boost and Compensation Spike
Public Safety Retirees vs Miscellaneous Retirees





Taking a strong role in the implementations of tough but fair changes in retiree benefits formulas and rules is the duty of CalPERS and its member agencies. Their expertise is needed to keep these funds healthy and to ward off unsound mandates from the state legislature.

5.4 Oversight by Sacramento Local Agency Formation Commission (SacLAFCo)

SacLAFCo is the Local Agency Formation Commission for Sacramento County and is a state-required countywide commission.³² LAFCOs' mandates are to ensure the orderly formation of local governmental agencies, preserve agricultural and open space lands, and discourage sprawl. They govern boundary changes (annexations) of cities and special districts, formation or incorporation of new agencies, incorporate new cities and districts, consolidation or reorganization of special districts, and updating spheres of influence (logical future service areas). SacLAFCo is responsible for coordinating logical and timely changes in local governmental boundaries and conducting special studies that review ways to reorganize,

³² Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended

simplify, and streamline governmental structure. SacLAFCo can initiate reorganization of an agency or district. State legislation gives them this authority. However, any contested reorganization requires approval of the electorate.

Municipal Service Reviews (MSR) is a LAFCo mandated report which must be completed for each district every five years as needed to support LAFCo actions. These reviews capture and analyze information about the governance structures and efficiencies of service providers, thereby assisting in the coordination and cooperation among providers. In the MSR Guidelines Final Draft (October 3, 2002)³³, a staff summary to the SacLAFCo, the executive director states, “I think that the MSR process will be multi-dimensional, and should be flexible, with different tiers and/or phases. I suggest that the MSR process begin by reviewing each service provider separately, with a progression towards an overall system review of similar municipal services (parks, water, fire, etc.).”

This investigation found that most LAFCOs in the larger counties in California have completed nearly all their MSRs, while SacLAFCo has only completed about 16 out of the more than 80 MSRs required. The SacLAFCo staff acknowledges they are way behind and have no current plan or budget to catch up.

There is also the issue of inactive districts. These districts are either inactive or they contract with other agencies/districts for their services. In Sacramento County, the non-operating contracting districts are: 1) Pacific Fruitridge Fire Protection District (contracts with City of Sacramento Fire Department); 2) Natomas Fire Protection District (contracts with City of Sacramento); and 3) Granite Resource Conservation District (Inactive). It appears that consolidation or dissolution of these districts would better serve the county. SacLAFCo has the ability to encourage such reorganizations.

³³ <http://www.saclafco.org>

6. Findings and Recommendations

Finding 1.0 ISD directors perform valuable service at minimal cost. However, this survey reveals inconsistent behaviors regarding compliance with sound management practices.

Recommendation 1.1 Directors should review their by-laws every four years to assure compliance with applicable laws, ethical practices, and appropriate behavior.

Recommendation 1.2 Directors should limit compensation to reasonable meeting stipends and necessary costs of professional activities. All ISD boards should ensure that their compensation practices conform to the principles in Section 5.1 of this report.

Recommendation 1.3 Directors should limit the use of consent calendars according to the principles in section 5.1 of this report.

Finding 2.0 Some ISDs grant monetary awards for education and training; many have inadequate evaluation of employees' degrees and certificates.

Recommendation 2.1 All ISDs should encourage education and training, but should not make direct monetary (cash) awards for educational achievement.

Recommendation 2.2 All ISDs should recognize educational degrees and certificates only if they meet the criteria listed in Section 5.3.1.

Finding 3.0 ISD pension awards and Other Post Employment Benefits (OPEB) have increased markedly in the last decade. Some of these awards are unfair and unsustainable.

Recommendation 3.1 All ISDs should adopt pension and OPEB plans that are fair, affordable and sustainable.

Recommendation 3.2 To minimize unfair pension boosting, all ISDs should ensure that calculations of employees' base pension awards are on actual base salary earnings over their highest 36 months of earnings and urge CalPERS to promote this standard.

Recommendation 3.3 All ISD pension/OPEB changes should be made only after analysis and full disclosure to all parties of the fiscal ramifications.

Recommendation 3.4 All ISD pension/OPEB benefits should have an employee contribution component.

Finding 4.0 The majority of the ISDs surveyed in this study are neglecting their fiduciary responsibility to taxpayers and ratepayers by excessive use of no-bid purchasing.

Recommendation 4.1 Every ISD in Sacramento County should establish and adhere to a goal of minimizing no-bid purchasing. Essentially all purchases except utilities and emergency construction should be by contracts awarded to the lowest responsive responsible bidders.

Finding 5.0 ISDs have not consistently conducted and reported required Independent Financial Audit Reports and management audits.

Recommendation 5.1 All ISDs must complete and file the required annual Independent Financial Audit.

Recommendation 5.2 All ISDs should commission a thorough periodic management audit. These audits should be completed by a multi-disciplinary team qualified to examine a district's management practices. This audit should be done in fiscal year 2011, and every four years thereafter.

Finding 6.0 Sacramento County Local Agency Formation Commission (SacLAFCo) is responsible for oversight of government agency functions and performance, and for all changes of agency boundaries and functions. SacLAFCo has not completed the state mandated Municipal Service Reviews for the majority of ISDs in Sacramento County. If special district malperformance is identified, SacLAFCo is often the last best hope for corrective action when ISDs fail to perform.

Recommendation 6.1 SacLAFCo must conduct, and review as necessary, the state mandated Municipal Service Reviews for every ISD.

Recommendation 6.2 SacLAFCo must evaluate, and forthrightly judge, the performance of every ISD. When needed, it should initiate reorganization (consolidation, dissolution, or annexation) proceedings to assure protection of public health, safety and welfare.

Recommendation 6.3 Local agency information on SacLAFCo's web site should be improved by including documents or links on ISD budgets, required financial reports and audits, utility rate schedules, current regulatory citations and compliance orders, enabling laws, and director rosters.

7.0 Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to indicated findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2010, from:

- **All 31 independent special districts listed in Table 1 herein, response to Findings 1 through 5, and their associated Recommendations.**
- **Sacramento Local Agency Formation Commission, response to Finding 6 and its associated Recommendations.**

A response is requested from:

- **The California Public Employees Retirement System to Finding 3.0 and its associated Recommendations.**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

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Probation and Education at Juvenile Hall

Juvenile Injustice

1.0 Foreword

Pursuant to Penal Code Section 919(b), the Sacramento County Grand Jury inspected both the Youth Detention Facility (juvenile hall) and the Sacramento County Boys Ranch, met with administrators of the Sacramento County Department of Probation (SCDP) and the Sacramento County Office of Education (SCOE). The following is an overview of juvenile hall³⁴ and its administration, along with a summary of major issues recently brought to light by legal actions.

A lawsuit recently resulted in a Consent Decree with the SCDP and a Settlement Agreement with SCOE. SCDP agreed to pay \$1.8 million and on-going monitoring costs, and to train staff. SCOE agreed to pay \$450,000 and costs in settlement of a related but separate legal action. The departments' failures to follow legal mandates denied the wards of the court appropriate safety standards and an adequate education program.

2.0 Method of investigation

To research allegations related to the Consent Decree and the Settlement Agreement, the grand jury reviewed legal documents and heard testimony from key staff members in both SCDP and SCOE. In addition, the grand jury reviewed probation department publications along with policies and procedures related to mandated reporters from SCOE.

3.0 Background and Facts

The Sacramento County Department of Probation operates juvenile hall. The chief probation officer recently assumed command of a troubled department. Although new to the position, the chief possesses an extensive background in probation and has plans for the implementation of his vision in managing the department and the facilities it oversees. The plans are based on evidence-based management. The goal is to eliminate unsound or excessively risky practices in favor of those that have been researched and are better

³⁴ Although the Sacramento County Boys Ranch is also administered by Sacramento County Department of Probation, it is reviewed separately and solely as an informational report to avoid confusing the issues specific to juvenile hall.

documented. As an example, probation staff recommends the placement of almost all low risk offenders at home versus being placed at juvenile hall. Analysis of statistical data suggests that a low risk youth placed in juvenile hall for as little as two days becomes a higher risk and learns many undesirable behaviors.

With the closing of the Warren E. Thornton Youth Center, there is no female juvenile detention facility in Sacramento County. In addition, the Boys Ranch may ultimately close if budget cuts continue, removing the only long-term juvenile facility in the county. The grand jury is concerned about the lack of appropriate options that will be available for the youth in the county. Due to recent budget cuts, 400 staff members have been affected and only mandated services remains intact. Due to staff reductions and changes in department policies, department representatives only supervise a very small fraction of the adults and youth on probation. Continuing budget pressures make this a very serious public safety issue.³⁵

3.A Youth Detention Facility (Juvenile Hall)

The purpose of the Sacramento County Juvenile Hall is to provide a safe and secure detention location for youth who have been arrested and determined to be a risk to the community. Those awaiting court appearances or serving custody terms are held pending placement at the Boys Ranch or other programs. Within 48 hours, a detention hearing is given to each new arrival at juvenile hall and a decision is made regarding his/her placement. If assessed not to be a risk, the youth is released pending a court hearing. Otherwise the youth is held at juvenile hall or placed in another program such as home supervision with electronic monitoring.

The assessment of youth offenders is based on what are referred to as evidence-based practices. The goal is to eliminate unsound or excessively risky practices in favor of those that have been researched and are better documented. As an example, probation staff recommends the placement of almost all low risk offenders at home versus being placed at juvenile hall. Analysis of statistical data suggests that a low risk youth placed in juvenile hall for as little as two days becomes a higher risk and learns many undesirable behaviors. Specific to youth detention, risk assessments are based on several factors including home supervision, parental support, previous offenses, gang involvement, and school reports. According to staff, there are several common characteristics of the youth at this facility. These characteristics typically include inconsistent parental discipline, poor supervision, and

³⁵ To see the distribution of active adult probationers in Sacramento County, use the following link:
www.probation.sacounty.net/Home/uploadedFiles/Juvenile_Probation_Programs/5_Active_Adult_Probationers_2010.pdf

multiple caregivers, along with a high probability of physical and/or sexual abuse, gang membership and experimentation with drugs and/or alcohol. Another common characteristic of youth at this facility is the failure to attend school and/or succeed in school.

The average stay of offenders is 21 days and currently there are seven units for boys and two units for girls. Youth at this facility are provided three meals a day, daily schooling, physical education, along with medical and mental health services. Visitations for reunification are also available. Under consideration is an evidence-based educational program that includes anger and gang suppression issues. There were no funds committed for this program.

When the grand jury toured the facility, the typical housing pods contained cells for one or two youth. Most cells consisted of two elevated concrete bed platforms with mats and bedding along with a small stainless steel toilet and sink. One book was observed in one cell but no personal items or educational materials were seen in any other cell.

Concerns from staff include: cuts in staffing, closure of the Warren E. Thornton Youth Center that included the only girls' detention unit, cut-backs on contracted and community-based referral services, staffing for the recently completed facility addition, and potential closure of the Boys Ranch facility.

3.A.1 SCDP Issues Relating to Juvenile hall

A Consent Decree was filed in Sacramento Superior Court in December 2009, against the SCDP arising out of a 2006 lawsuit alleged failures in the operation of juvenile hall. The suit alleged overcrowding and the use of excessive force. The probation department agreed to pay \$1.8 million and consent to three years of monitoring and enforcing compliance. The department must employ at least one full time youth advocate, employ a staff trainer on the use of force, and employ an outside expert to assist in reviewing policies and procedures.

Senior management acknowledged the allegations in the lawsuit and admitted that they lost their way. They understand the specific items listed in the Consent Decree and how compliance with each item would be performed and monitored. The candor and obvious desire of the probation department managers to improve performance and to demonstrate accountability were refreshing. The grand jury is hopeful effective changes will be made.

3.A.2 SCOE Issues Relating to Juvenile hall

SCOE is required by law to provide education for youth detained at juvenile hall. The lawsuit, which was a byproduct of a lawsuit against SCPD, questioned whether SCOE was performing its duties. While the allegations against SCOE were not as serious as those against the probation department, the grand jury thought it was important to investigate them.

SCOE had concluded the litigation against it by entering into a Settlement Agreement in January 2010. Under the terms of the Settlement Agreement, SCOE agreed to pay \$450,000, plus costs. SCOE does not have any monitoring of its future performance. However, it agreed to make changes in its programs and supervision. The Settlement Agreement includes all juvenile court schools operated by SCOE.

The legal action regarding the education of youth in juvenile hall was based mainly on two practices: no educational services for juveniles on room confinement in the facility, and suspension of juveniles from the classrooms without parental notification.

In reviewing the allegations made in the lawsuit brought against SCOE, the grand jury had questions regarding the actual educational services provided to youth in the juvenile justice system (specifically juvenile hall) versus educational programs specified by statute. A further question was raised concerning the understanding of teachers in their role as mandated reporters.

The suit alleged that youth in the juvenile hall were being sent back to their housing units from school on “overflow” status, when classrooms were too full. Therefore, they did not receive the required education on those days. This problem has been resolved. Juvenile hall has been rebuilt and with the new classroom configuration, there is little possibility of “overflow.”

The suit further alleged that in two housing units, Room Confinement and Administrative Room Confinement, youth received less than the mandated four hours of school per day as the typical day included one hour of school and one hour of outside recreation. In addition, youth in these two units received no homework and were allowed no pens or pencils in their rooms. Students are now allowed to have rubber pencils. Youth in room confinement ranging from three days to thirty days or longer had no school at all. Under the settlement terms SCOE must develop an adequate preliminary educational plan for all youth detained in juvenile hall within five days of the student’s arrival to the facility. The minimum amount of school time must comply with the school day requirements of the Education Code.

Students having court hearings or medical appointments continue to forgo educational programs. SCOE holds the probation department accountable for this problem. SCOE’s possible proposed solution to this common occurrence is to have evening educational programs for these students. However, this idea is still not developed, still needs to be negotiated with the teachers’ union, and will need support from juvenile hall probation officers to bring students from their rooms and provide supervision in dining areas while instruction is given.

The Settlement Agreement also states SCOE must follow the Education Code when suspending students and provide adequate documentation that its suspension policies and practices comply with applicable law. It is unclear what SCOE is doing to resolve the second issue of the lawsuit, the suspension of juveniles without parental notification. An effort is made to call parents; if unavailable, a letter is sent.

When students are unable to attend school because they have been placed in Room Confinement or Administrative Room Confinement, they receive education only if probation staff escorts them to a designated day room. SCOE is then to provide the students with class assignments and individual instruction for no less than 20 minutes per half of a school day during the regular school hours. This settlement item is conditioned on SCOE not being obligated to provide this instruction if a student is a danger to himself or others.

SCOE did not appear to understand or acknowledge its responsibilities as mandated reporters. SCOE was vague when questioned regarding knowledge of this subject, let alone the policies and procedures of mandated reporting.

The senior administrators of SCOE toured juvenile hall in 2004 and expressed disappointment in the quality of the education program. Yet, no changes were made. Students in juvenile hall have diverse and often intense educational and behavioral needs.

The original lawsuit brought against SCOE included issues with both general education and special education students. SCOE was able to have the special education component dismissed, as it had no named plaintiff. This grand jury has no information on the quality of the special education programs being given to youth with special needs at the county's juvenile facilities.

4.0 Conclusions

It is critical that SCDP and SCOE refocus and collaborate on their common goals for meeting educational and rehabilitation needs of youth in their care. No matter what plans are adopted by SCDP and SCOE, a professional and cooperative relationship is a necessity. The plans of both agencies must ensure that the true beneficiaries are the youth. Not to do so will make these youths victims of failed systems.

5.0 Findings and Recommendations

Finding 1.0 SCOE entered into a Settlement Agreement in which it agreed to remediate alleged failings and implement changes.

Recommendation 1.1 SCOE needs to immediately complete, implement, and monitor a detailed comprehensive corrective educational action plan to include all SCDP students. The

plan is to be based on state standards, the Education Code (including E.C. 48645, et. seq.), and federal law. The results of this corrective action plan should be published yearly.

Recommendation 1.2 SCOE should contract with an outside agency to audit and publicly report SCOE's progress/performance towards complying with the Settlement Agreement.

Recommendation 1.3 SCOE should conduct comprehensive annual evaluations for its entire staff at juvenile hall based on job descriptions, state standards, and Settlement Agreement mandates.

Finding 2.0 Students have missed classes because of court dates and medical appointments.

Recommendation 2.1 The proposed idea of SCOE senior management to implement an evening educational program needs to be immediately negotiated with SCOE staff, labor union, and the probation department. If this plan is unworkable, another plan should be developed and negotiated immediately to ensure that all students at juvenile hall have appropriate educational services.

Finding 3.0 Staff at SCPD and SCOE are mandated reporters and are required by law to report abuse or suspected abuse.

Recommendation 3.1 Annual training on mandated reporting for all SCPD and SCOE personnel employed at juvenile hall needs to occur.

Recommendation 3.2 To resolve confusion as to who should be reporting when multiple mandated reporters are aware of, or suspect abuse, a policy should be created and implemented for both the SCPD and SCOE employees at juvenile hall.

Required Responses

Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2010, from:

- **Sacramento County Board of Supervisors**
- **Superintendent, Sacramento County Office of Education**
- **Chief Probation Officer, Sacramento County Probation Department**

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

**Hon. Steve White, Presiding judge
Sacramento County Superior Court
720 9th St., Dept 47
Sacramento, CA. 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

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Rio Cosumnes Correctional Center

Summary

The Rio Cosumnes Correctional Center (RCCC) is the primary custody facility for inmates sentenced to jail in Sacramento County and operates in conjunction with the Sacramento County Main Jail (SCMJ). The investigation of RCCC began with researching background information prior to touring the facility as part of the grand jury's charge to monitor prison facilities in the county pursuant to Penal Code Section 919(b).

Jurors took note that the SCMJ is operating under a legal consent decree to limit overcrowding to achieve a safer environment for staff, as well as the inmates housed there. The RCCC, with its antiquated design, houses approximately the same number of inmates as SCMJ, but has no such limitation on inmate population. The population of SCMJ is limited to 2,432 by Consent Decree and the population of RCCC varies from 2,100-2,400 daily. Based on the Sacramento County Inspector General (IG) report, private consultants and management reviews, staffing at RCCC should be expanded to achieve a safer environment for staff and inmates. The Inspector General reiterated his comments concerning RCCC in the 2009 Sacramento County Annual Report and thus one must ask: "Is anyone listening?" What shocking events at RCCC will it take to get the attention of those responsible for prioritizing and budgeting for the safety of employees and the inmate population placed in their care?

Throughout this report the terms "administration" and "management" are utilized. Administration refers to the Sacramento County Sheriff and to the Sacramento County Board of Supervisors. RCCC management refers to captain-level deputies.

Repeated recommendations on developing a serious long-term solution for this aging facility appear to have fallen on deaf ears. To date, plans for improvements at RCCC have been presented to administration by management but have been met with patchwork solutions or have been ignored. These plans include recommendations to upgrade minimum-security housing to medium-security housing. Although there may be little chance of funding the necessary modifications to effect long-term changes at RCCC in today's economic environment, formulating a comprehensive long-term plan for improvement is a must. Continuing current trends of staff reductions without thoroughly assessing the effect on safety and potential legal consequences could ultimately cost the county in workers' compensation or lawsuits initiated by the inmate population.

Background and Facts

The Rio Cosumnes Correctional Center (RCCC) is the primary custodial facility for inmates sentenced to Sacramento County Jail, and is the adjunct facility for over-capacity pre-trial inmates from the SCMJ. Additionally, inmates arrested in the southern portion of the county, as well as parole violators, are held there awaiting hearings. State and federal prisoners, as well as prisoners from other counties, are held on a reciprocal basis. Some federal inmates are housed on a contractual basis for the U.S. Bureau of Prisons. RCCC is classified as a medium security facility and serves as the primary reception and transportation hub for all defendants sentenced to state prison. The Sacramento Sheriff's Department is responsible for the operation of both the SCMJ and RCCC.

Initially built as an Air Force base, RCCC was deeded to the county in 1947, and converted to a jail facility around 1960, with a capacity to house 750 inmates. RCCC is older than the SCMJ by several decades and is located in south Sacramento County near Elk Grove. RCCC is bordered by a shooting range on the north, a county road on the east, an airfield on the west and industrial buildings on the south. There is little land available for expansion. RCCC is unique in that there are distinctively different facilities, in a campus-like layout, incorporated into one overall operation. The facility includes units for minimum (honor), medium-security, and maximum-security inmates, along with a medical housing unit, and a women's detention facility.

The minimum-security facility has seven housing units ranging from old military barracks to modern pod-style buildings overseen by centralized control rooms. The maximum-security area is divided between two sections holding a maximum of 393 beds. Each of the housing units within RCCC have been added to or upgraded at different times in a hodge-podge fashion. This is demonstrated by an abundance of chain-link fences and key-locked gates that separate units and require escorts for prisoner movement to and from various activities, which is labor intensive.

RCCC offers several programs and services for inmates. Some of the programs provided are religious services, mental health services, substance abuse programs as well as vocational and education programs. Printing, engraving, and graphics are vocational programs offered in a newly constructed classroom/office building. Teachers for adult education classes are provided by the Elk Grove Unified School District using modular classrooms. Correctional staff expressed concerns about RCCC's ability to offer valuable non-mandated programs should additional funding cuts occur.

Method of Investigation

The grand jury visited and toured both the SCMJ and the RCCC facilities. The grand jury interviewed numerous staff in the sheriff's department, reviewed numerous reports and other documents to gain an understanding of the challenges facing the sheriff's department during this time of extreme budgetary stress.

Issues

During its investigation the grand jury identified multiple issues that face RCCC. We will discuss those that are most critical.

Staffing

In the September 2009 Jail Operations Audit, the Sacramento County Inspector General reviewed many issues affecting the sheriff's department and specifically, jail operations.

The IG's report and the Management and Planning Bureau (MAP) study³⁶ recommends staffing at RCCC should be 243 positions. The sheriff's department has only authorized 183 positions and only filled 175 of the authorized positions as of the date of the study. This would mean a 60-position difference in the recommended staffing and the actual positions authorized, and a 68-position difference in the actual positions filled.

This report was followed by an internal RCCC report titled *Jail Overcrowding and Safety Concerns at RCCC*.³⁷ The report asserts "minimal resources coupled with an increasing demand for services . . . predicts that overcrowding and low staffing levels will exacerbate unsafe conditions at RCCC, leading to chronic non-compliance with regulatory mandates, as reported by the California Correctional Standards Authority in their biennial inspections."³⁸ As stated in the 2008 and 2009 IG reports, the number of inmate-on-inmate assaults increased from 187 to 201 and the number of assaults on staff increased from 5 to 13. While this may or may not be a trend, the numbers are alarming.

Structure

RCCC is an old facility initially built as an Air Force base. Many changes have been made to upgrade the facility to house more dangerous inmates and to provide options for managing a diverse inmate population. The reality is that the upgrade efforts have not kept up with the need. Other than upgrading the minimum-security (honor) facility to a more secure

³⁶ Report commissioned by the Sacramento County Board of Supervisors in 2006.

³⁷ November 2008

³⁸ 2008 Biennial California Correctional Standards Authority Report on RCCC and California Code of Regulations – Adult Standards – Title 15

environment, there probably are not many construction upgrades short of constructing a new facility that will improve staff and inmate safety at RCCC.

Modular classrooms are located near the boundary of the property. During the grand jury tour, members noticed there were no security cameras in the classrooms and the only personal alarm device was a telephone. Personal alarm devices are utilized to notify custody staff of a problem or potential problem within a specific area of the jail. Since the tour, over 300 cameras were added and are in use throughout RCCC. These cameras are a great addition; however, they cannot replace the physical presence of a deputy and the direct observation of inmates as required by state law. When a senior RCCC staffer was asked if the installation of cameras had reduced the amount of inmates-on-inmate crime, his response was, “no.” The cameras have helped staff identify the inmates involved during these infractions.

The RCCC management has been very flexible and creative in managing a dangerous environment with substandard staffing levels. The physical size of the facility as well as its layout requires deputies to escort inmates to different activities. This requirement removes the deputy from the housing unit where he/she is needed to provide the mandated security. This leaves inmates without proper supervision in the housing units. Despite the efforts of the management team, this facility constitutes an unsafe environment for staff and inmates by any reasonable standard.

Additional Factors

Another aspect of the budgetary impacts on RCCC must be mentioned. RCCC has the unique ability and responsibility to supervise female inmates on the same grounds. The Sandra Larson Facility (SLF), formerly the Women’s Detention Facility, houses female minimum, medium and maximum-security inmates in a totally separate and self-contained facility. The facility consists of a booking facility, visiting areas, classrooms, a dining hall and kitchen, all specifically for female inmates. A vocational restaurant training program at RCCC, gives female inmates job skills that qualify them for a number of jobs in the food service industry. Absent this facility, female inmates would need to be housed at the main jail and without this vocational training opportunity.

There are strong indications that the sheriff’s department may close this women’s facility because of budget reduction decisions by the Sacramento County Board of Supervisors. Aside from the unfortunate loss of the unique opportunities that are available to female inmates at this facility, there is also the issue of gender equality that could arise from loss of this portion of RCCC.

Budget cuts most often occur in the context of staffing reductions, and/or the closure of housing units. Recent early prisoner releases, in accordance with legislative changes, (Penal Code, section 3000.3, January 25, 2010) may initially reduce the inmate population at RCCC.

The thrust of recent court proceedings is to release low-risk non-violent offenders to programs such as home detention or work release. This is done to reduce the cost of housing inmates and save operating costs. This may allow closure of smaller sections of the facility, but the long-term effect of this law and legal strategy is yet to be determined. With the closure of housing units at RCCC, there would be no space for the overflow of inmates from SCMJ. If early released inmates from the state correctional system re-offend in significant numbers, RCCC will need to provide the necessary housing.

Findings

Finding 1.0 The number of inmates in the minimum-security section at RCCC will likely continue to decrease as a percentage of the total inmate population as the courts pursue alternatives to incarceration for low-risk non-violent offenders. As a consequence an increase in the custody level of inmates will occur.

Recommendation 1.1 The Sacramento County Board of Supervisors and the Sacramento County Sheriff should implement the management recommended conversion of the minimum security housing to medium security housing.

Recommendation 1.2 The Sacramento County Board of Supervisors, the Sacramento County Sheriff, and RCCC should develop and adopt a long-term comprehensive plan, to address the needs of the changing inmate population.

Finding 2.0 The aging infrastructure of RCCC, with its abundance of fences and key-locked gates, is labor intensive and requires higher staffing levels to insure the safety of staff and inmates.

Recommendation 2.1 The Sacramento County Board of Supervisors and the Sacramento County Sheriff should staff RCCC to the level recommended by the Corrections Standards Authority, the Inspector General and internal management.

Finding 3.0 The modular classrooms are remote and deputy response to an emergency situation may not occur in sufficient time to avoid a major incident.

Recommendation 3.1 The RCCC Management Team should provide a personal alarm device for summoning assistance to the adult education teachers.

Finding 4.0 The Sandra Larsen Facility for female inmates offers a vocational program not available at the SCMJ.

Recommendation 4.1 Funding to house female inmates and the vocational education program at the Sandra Larsen Facility should continue.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by October 1, 2010, from:

- **The Sacramento County Board of Supervisors**
- **Sacramento County Sheriff John McGinness**

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

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, email the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com

Informational Reports Preface

The 2009-2010 Sacramento County Grand Jury wrote eleven informational reports. These reports were written to enlighten the citizens of the county of Sacramento to the variety of departments located throughout the county that provide services to the general public.

Most of the information received from these reports was received through touring and briefings from employees at the various city/county/state departments.

The tours of the county and state correctional facilities are mandated by California Penal Code Section 919 (b) which states in part, “The grand jury shall inquire into the conditions and management of the public prisons within the county.”

The informational report titled, “Sacramento City Unified School District-Last Chance to Put Children First,” was released publicly prior to the release of this final report.

The remaining informational reports are:

- Sacramento County Main Jail
- Sacramento County Coroner’s Office
- Sacramento Emergency Call Centers
- The Children’s Receiving Home of Sacramento
- Carson Creek Boys Ranch
- California State Prison-Sacramento-New Folsom
- Folsom State Prison
- Sacramento County Mental Health Services-A System in Crisis
- Child Protective Services Follow-up Report
- Sacramento County Traffic Fines-What You See Isn’t What You Get

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Sacramento City Unified School District

Last Chance to Put Children First

Background

Since the 1980's the Sacramento City Unified School District (SCUSD) has been plagued with difficulties relating to educational programs, fiscal integrity and governance. Over the years, eleven superintendents (interim, acting, and appointed) and many short-term board members have attempted to address these difficulties, trying any number of different solutions. None have been found which satisfied the school community—parents, teachers, employees and students—or resolved the problems. Frequent changes of governing boards, superintendents, and staff have not proven effective. In fact, changes have added to the inconsistency which thrives in the district.

One constant continuing force has not changed in the district—the Sacramento City Teachers Association (SCTA). SCTA backs candidates for school board at all elections and their endorsements have an enormous impact on who are elected. Also, leadership from the state California Teachers Association (CTA) has played a continuous active role in the district's negotiations, grievance discussions, and Public Employment Relations Board hearings. The district, on the other hand, has changed negotiators and negotiating positions as frequently as superintendents and board members have changed. The views of the superintendent and the board have not always been in concert.

Time has not changed or resolved the issues facing the district. Now time is running out. The district faces a financial crisis which presents it with a last chance to save itself. However, SCUSD will only survive if everyone involved faces the reality of the present situation and works together to find a way to survive. Ignorance and community apathy will be fatal. Should the district continue on the dead-end road that it followed in the past, the consequences for the district will be disastrous. The SCUSD school board, superintendent, teachers, unions, parents and community are all accountable for the continued existence of the district and are responsible for providing an excellent education for children. Self interests must be set aside so that SCUSD makes decisions that permit it not just to survive but to thrive.

This year SCUSD has a new Superintendent, Jonathan Raymond. Since he arrived in September 2009, he has worked to identify the financial and educational problems facing the district and to develop a plan to solve those problems. In order to proceed effectively, he has surveyed his total school community and has prepared a plan of action which presents a set of priorities for teaching and learning. While he has a limited ability to solve the financial problems, he has taken quick action to protect funds intended only for the classroom (Title I funds for disadvantaged youth) and to model ways staff can join in further savings. For

example, in the SCUSD, furlough days are becoming the norm among all employees except those belonging to SCTA. The superintendent's pursuit of excellence will be affected by his relationship with the school board, teachers and employees as well as by fiscal problems.

In this report, the Sacramento County Grand Jury outlines the major points in Superintendent Raymond's plan, commends him on his outreach, enthusiasm and hard work, and encourages all parties to join him in implementing his plans to renew the district and offer the best possible education for its students. The grand jury then reviews the financial problems and indicates how those problems affect the district.

Approach

Data gathered for this report included sworn testimony from key stakeholders, attendance at board meetings and research from a wide variety of district documents.

Discussion

During the first 100 days in his position, the new superintendent demonstrated a remarkable determination and commitment to improving the educational program in SCUSD. In September 2009, he announced his vision, "Putting Children First."

In the past, the community has complained that it was difficult to get the attention of the district and communicate with it. Raymond wanted to address that complaint. He immediately began engaging with and listening to the school community, parents, teachers, students and staff. He attended school with the children, rode the school bus and ate in the cafeteria. He held meetings with parents, public officials and the media. He communicated with the community in public forums and by e-mail. He met with experts, and convened and met with study groups. He used input from all parties to develop plans to improve teaching and learning. Permeating all of his activities was his key belief that children must be put first.

Superintendent Raymond conducted two surveys that were the first ever conducted in the district, "The Budget Shortfall Survey" and "The Strategic Plan Survey."³⁹ Data from the surveys was collected and analyzed and used to draft a plan to implement the superintendent's vision. This plan will guide the district's educational philosophy, aspirations for student achievement, fiscal decision making and operational focus. In preparing his plan, the superintendent asked what could be done to bring change to the district so that children were always put first.

Specifically he addressed the question: How can the district spread its good programs and practices across the district? He recommended that the district:

³⁹ The complete results and analysis can be found on the SCUSD web site, www.scusd.edu.

- Increase literacy rate by launching a literacy campaign using all resources available
- Establish eight task forces to address specific programs with narrow goals and restricted funding
- Turn around chronically low and under-performing schools by replicating successful programs in order to ensure equal access and opportunity

He recognized that, in order to achieve his goals, it was necessary to:

- Access, reorganize, and realign various site and central office leaders. Provide quality teaching in every classroom, promote and support professional development, and establish a Title 1 task force to examine the district's use of funds
- Use data to achieve accountability through the systemic use of quantitative and qualitative data to drive instructional decisions, transparency, and evaluation
- Connect schools to neighborhoods, increase parent and community involvement through forums and focus groups and insure the availability of necessary resources

Superintendent Raymond has an excellent plan to resolve longstanding educational problems in the district and needs the support of the community to accomplish his goals. However, the plans will fail unless the community first faces its financial problems.

Fiscal concerns have arisen in two areas. One, the State of California has failed to meet its funding obligation under state law. Two, school boards have failed to recognize the unimagined long-term impacts of previous contractual agreements, such as the cost to the district for retiree health plans. SCUSD's current unfunded liability for this item is \$560 million dollars—certainly unsustainable in future years. At the current payment rate of a million dollars per year, it would take at least 560 years to pay off the obligation.

In the last several months, Raymond has held budget workshops so that the community is aware of the financial problems it faces and he has begun work on a strategic plan to address those problems. The superintendent must present a balanced budget to the school board. Because of financial issues out of his control, such as state contributions and escalating expenses for salaries and benefits, the district does not have the income to match its expenses. The district faces a \$30.6 million budget shortfall for 2010-11. The district has until June to present to the Sacramento County Office of Education a budget that meets state standards. If it fails to do so, it could lose local control of future budget decisions. Examples of cost reductions the superintendent can propose are:

- Reduce school hours
- Close schools
- Eliminate extra-curricular activities
- Increase class size
- Reduce elective programs
- Reduce maintenance and other services
- Eliminate transitional kindergarten

- Reduce adult education
- Incorporate furlough days

In addition, the district could ask the unions to make concessions on salary or benefits. However, none of these are easy or popular choices.

The district has reallocated \$15 million from categorical Tier III funds to fill \$15 million of the deficit. However, much more remains to be done in order to avoid cutting vitally important educational services and programs.

As with most school districts, 80% of the budget goes for salaries and benefits leaving only 20% for all other expenses such as books, buildings and grounds, utilities, maintenance, transportation, etc. Five employee groups have agreed to take at least three furlough days in 2010-11. The district may soon face mediation with its teachers' union. The district is presenting the SCTA a formal proposal to reopen negotiations on concessions. In years past, the district and unions negotiated salaries and benefits, such as the retiree health benefits, without a true understanding of the potential cost. The true actuarial costs were not understood and few anticipated the present recession. Now those benefits must be reevaluated. SCTA's budget cutting proposals are inadequate and unrealistic in relation to the size of the deficit. It must be willing to work with the district and community to do its share.

A continued unwillingness to modify some contractual agreements will result in district bankruptcy. With a school district bankruptcy, law dictates that all contractual agreements become null and void. This benefits no one. It is time for unions to become more of an advocate for children.

The superintendent has sought to create a program to improve educational quality. He cannot implement this program if he has to cut services to students such as the length of the school day or limit access to technology so desperately needed.

Conclusion

Superintendent Raymond has an enormous challenge of addressing an inherited accumulation of issues along with managing a fiscal crisis. The Sacramento County Grand Jury supports the superintendent's mission of improving student achievement and closing the budget shortfall. On the journey to these desired outcomes, the roadblocks of budget constraints will demand that the board and all staff negotiate, be accountable, and step up to share the responsibilities and sacrifices in order to avoid disaster. This could be the district's last chance to put children first.

Sacramento County Main Jail

On July 29, 2009, the Sacramento County Grand Jury toured the Sacramento County Main Jail (SCMJ) located at 651 I Street, Sacramento, California. This tour was pursuant to Penal Code Section 919(b), which states, “The grand jury shall inquire into the condition and management of the public prisons within the county.”

The SCMJ opened in April 1989, with a single-cell capacity of 1,252 inmates. The current cell capacity, based on double-cell occupancy is 2,432 inmates. The cost of housing each inmate is about \$80.00 per day.

The average number of inmates booked into the SCMJ is 190 per day. This results in booking of about 5,700 inmates per month and 68,400 inmates per year.

The SCMJ managers gave the grand jury a packet with information about the jail history, visiting and staffing. The grand jury was introduced to a four-member panel who answered questions about receiving, classifying, housing, disciplining and releasing inmates, as well as providing medical and mental health services. In addition, this panel provided information on staff training, staff-to-inmate ratio, staff performance evaluations, staff services and the consequences of the loss of staff due to recent budget constraints.

After the briefing, the grand jury took a walking tour and followed the steps a newly arrived inmate would take. The tour began in the secured garage, moved to the booking area, the staging areas for housing, the classification offices, and concluded in the proper pod for housing of the newly arrived inmates. The appropriate housing of an inmate is determined by such factors as sex, physical/mental disabilities, gang affiliations, race and prior criminal history. The tour continued through the medical and mental health pods, laundry, and kitchen areas.

This experience highlighted the complex daily operations of the SCMJ. The information gained from the tour, documents, and responses from SCMJ managers raised two important concerns regarding public safety. The receiving and booking area takes peace officers off the streets for unreasonable amounts of time. This is due to the shortage of qualified medical staff to assist in the required medical screening of the newly arrived individuals.

SCMJ management recognized this problem and started a pilot program in which, on a rotating basis, county law enforcement agencies that utilize the county jail will assign an officer to the receiving and booking area. This officer will take control of the inmate from the arresting officer and allow the arresting officer to return to the streets where he or she is needed.

The Sacramento City Police Department was awarded \$9.5 million in a federal allotment, while the Sacramento County Sheriff's Department received no federal allotment. The concern of this grand jury is that due to budget cutbacks and no additional funding, the Sacramento County Sheriff's Department will be forced to terminate more positions. These terminations will adversely impact the operation of the SCMJ and the safety of the public by reassigning the deputies from the streets to the Sacramento County Main Jail.

The 2009-2010 Sacramento County Grand Jury thanks the Sacramento County Main Jail staff for their professional and courteous attention.

Sacramento County Coroner's Office

The Sacramento County Grand Jury toured the Sacramento County Coroner's Office on August 30, 2009. The purpose of this tour was to educate the grand jury on the functions of the coroner's office and to review compliance with its policies. It should be noted the grand jury is the only entity that is allowed this tour. The coroner's office is located at 4800 Broadway in Sacramento.

The Sacramento County Coroner's Office is independent from the sheriff and the district attorney. It reports directly to the Administrator of the Countywide Services Agency. This allows the coroner a degree of objectivity and independence not enjoyed by many other coroners throughout the state. The grand jury recommends this reporting relationship be maintained.

The staff of the coroner's office includes the coroner, assistant coroner, deputy coroners, forensic pathologists, technicians, administrative and clerical staff. The office is open 24 hours a day, 365 days a year to serve the public. The coroner's office is responsible for notifying next-of-kin, protecting the property of the deceased, determining the cause and manner of death, issuing death certificates, and the disposition of the remains.

Under the California Government Code the coroner's office must investigate all deaths from non-natural causes, deaths related to a contagious disease, or deaths of individuals who have not been seen by a physician for more than 20 days prior to the death. There are only two instances when a full autopsy is required by law: when the death is part of a CalOSHA investigation or when the family of the deceased insists on an autopsy. When the family insists, the family must be responsible for the cost.

The State of California recognizes five classes of death: natural (the majority of deaths), homicide, suicide, accident, and undetermined. When the coroner's office investigates, the process includes a death scene review by a deputy coroner, body identification, and forensic examination by a pathologist. Approximately 7,000 deaths occur each year in Sacramento County, and about 1,500 cases are reviewed. The Sacramento County Coroner's Office has the seventh largest number of cases in the state, and the largest facility in Northern California. In the event of a disaster, this office is the regional coordinator for a ten-county area. One of the resources of the coroner's office is a Mass Casualty Response Vehicle. This vehicle can be used as a field morgue at a site with mass casualties and for transportation of multiple bodies to the morgue. It is a 53-foot refrigerated truck purchased with grant money from the Department of Homeland Security.

When a deceased is first brought to the coroner's office, fingerprints are taken. This coroner's office was the first in California to use the LiveScan fingerprint system. This has been helpful for quicker identification of the deceased, and also assists the Department of Justice in clearing its database.

The autopsy suite consists of an open area with six bays. The area appeared clean and well-equipped. There are two special rooms: one for contagious disease cases and one for homicide cases with a glass paneled room with an intercom system for observation by law enforcement. An adjoining area has equipment to do body and dental x-rays.

The freestanding cooler/freezer area where the bodies are stored has the ability to hold 300 bodies in the cooler area, and another 100 in the freezer. This cooler/freezer is the largest in Northern California.

The coroner's office leases space to the University of California, Davis Medical Center. The university uses it for its morgue, and for its donated body program. The funds generated from the lease assist in the maintenance and operation of this facility.

The coroner's office participates in numerous educational programs. For example, it provides various presentations to community groups and schools such as the CHP's "Every 15 Minutes" program, DUI programs, and its student internship program. The coroner's office also participates on the review teams relating to the deaths of children and the elderly. A volunteer forensic artist assists with unsolved cases by making a sketch of an unidentified person. The sketch is posted on the coroner's office website.

As with all the county agencies, the coroner's office has been affected by budget cuts. The number of pathologists and deputy coroners has been reduced. The number of examinations has decreased. No overtime is permitted; no equipment repair funds are available; and no pathologist is paid stand-by time. As a result of these cuts, families will have to wait longer for remains to be released. In addition, some coroner cases may not be examined.

The Sacramento County Coroner's Office serves the deceased and their families with respect and dignity.

Sacramento Emergency Call Centers

The Sacramento County Grand Jury toured the City of Sacramento, the County of Sacramento, and the California Highway Patrol (CHP) emergency call centers to learn how the centers operate. The CHP center is a state agency, which was kind enough to allow us to tour its facility.

Members of the grand jury toured the Sacramento City Emergency Call Center on September 10, 2009. It employs 60 dispatchers, which is approximately 60% of the fully authorized staff of 108. These dispatchers work various positions including a service desk, radio dispatch, and code desk. They receive approximately 15,000 calls per month. The goal of this facility is to answer calls within 10 seconds. Currently calls are being answered within 11 seconds. This building has 34,500 square feet of space, which holds workspace, training space, a break room, a roll call room, a gym, an information technology department, and two locker rooms with showers. The size of this building could accommodate staff from other 911 facilities during emergencies. This agency appears to have a good program to train children in pre-school through second grade about police emergencies and 911 calls. Extending this program to all age groups could possibly assist the public in determining what an emergency is and when to call 911. This could reduce the number of non-emergency calls to 911.

On October 27, 2009, the grand jury toured the CHP emergency call center. This building is shared with Cal Trans. CHP provides the security for the building and occupies a watch office with a sergeant and two officers. This center dispatches to six counties and answers all cellular telephone calls that originate from or near a freeway in these counties. Since January 2009, this center has received 502,000 calls with an estimate that 30% of the calls were emergencies. This center also answers 1-800- TELL CHP, which receives calls from outside California. During the first nine months of 2009, approximately 82,198 calls have been received. Most CHP operations/dispatches come from this center. This includes Cal Trans activating Amber Alerts, monitoring cameras, guiding CHP and other agencies as they respond to emergencies on California freeways, and taking stolen vehicle reports for Sacramento County. This facility accommodates training for its personnel. The facility does not have excess space and could not accommodate other agencies in an emergency. This center does not meet the “10 second rule” based on the number of cellular 911 calls that are dropped due to public hang-ups.⁴⁰

⁴⁰ Note: An article in the *Sacramento Bee*, March 7, 2010, states the CHP facility now meets the “10 second rule.” They have accomplished this goal by utilizing up-dated equipment and re-routing non-emergency calls to other call centers.

On February 26, 2010, the grand jury toured the Sacramento County Emergency Call Center. This center has 15 call-taker stations and a supervisor's station. An adjoining room has six dispatch stations. There are 33 call-takers, 33 call-taker/dispatchers, and six supervisors. They work four 10-hour shifts per week. Each dispatcher is responsible for 20-30 mobile road units and four radio channels. The communication control system is a 1997 model.

In November 2008, a new location for this call center with more space was identified. Since that time, updating the communication control system has been delayed. Moving to a new location would involve modification of an existing building, and installation of a new communication control system. The facility would be updated using available appropriated tobacco tax funds. These funds can only be used for physical materials and cannot be used for personnel. When the CHP shifts more cellular calls to the county call center as planned, the current call center will not have room for expansion to accommodate the anticipated increase in call volume. This move and updated equipment must first be approved and budgeted by the Sacramento County Board of Supervisors.

This center receives about 600 emergency calls per day and has met the standard of the "10 second rule." Fire emergencies are re-directed to fire departments and cellular emergency calls, if feasible, are directed to the CHP call center.

This center and the city emergency center have a good working relationship. Conversations on combining the centers have occurred. In case of an emergency, these call centers serve as the back-up for each other. Therefore, these centers must be at separate locations.

All three agencies provide a higher level of training for the call takers and dispatchers than is required by law. It was reassuring to see the high level of concern for safety and excellent service provided by the staff at all three call centers.

The Sacramento County Grand Jury expresses appreciation for the information shared and the knowledge gained from the city, county and state call centers.

The Children's Receiving Home of Sacramento

On September 17, 2009, the Sacramento County Grand Jury toured the Children's Receiving Home of Sacramento. The executive director and his staff provided information and a tour and answered questions.

The Children's Receiving Home opened in 1944 and is licensed to care for 98 children between the ages of one and seventeen. Children under the age of one are placed in special foster homes. In Sacramento County the receiving home is the first placement for most children whose parents are unable to care for them, who have been abandoned, or who have been removed from their home by law enforcement or Child Protective Services. The average stay for a child is 30-35 days. The staff assesses each child's physical, emotional, and educational needs. The home helps address the child's medical and dental needs as well. Child advocates also work with the children.

A child placed in the home is a ward of the court. Visitation with a child requires approval of the court/social worker and must be in an observed setting.

Children are housed in cottages that can accommodate up to ten children. Each cottage has bedrooms containing two beds, bathroom facilities, and a central sitting area. Children five years of age and under are housed in two cottages which have an eating area and separate outside play area. There is also a classroom connected to one of these cottages.

Older children have a dining hall, a pool and an outdoor recreational area. A building that was added three years ago has a multipurpose room and a newly completed kitchen to train teens who will be transitioning to independent living. The main kitchen is clean, and offers nutritious and appetizing meals.

All school-age children attend school. The San Juan Unified School District provides the educational component. There are four classes: first through third grade, fourth through sixth grade, seventh through ninth grade, and tenth through twelfth grade. A certificated teacher leads each classroom with an aide and several volunteers.

The home is under contract with the County of Sacramento. It also receives grant money and the remainder of its funding relies on donations. In addition, volunteers help with the care and mentoring of the children, and sponsor fund-raising activities.

In California, there is only one other home like the Children's Receiving Home of Sacramento. The authorities in counties that lack such a home must take children directly to a foster home without a thorough assessment to assist in an appropriate placement.

The Children's Receiving Home of Sacramento provides support and a safe and caring environment for as many as 1,700 children each year. This facility gives children the chance to be surrounded by caring adults and other children experiencing similar problems so they do not feel so alone. The grand jury appreciates the many services provided for the children by this unique facility.

Carson Creek Boys Ranch

On September 24, 2009, the Sacramento County Grand Jury toured the Carson Creek Boys Ranch (Boys Ranch). The Boys Ranch is managed by the Sacramento County Department of Probation. There are currently 86 assigned staff members including uniformed officers and civilians. This facility is located on 140 acres (8.3 acres are fenced) in rural eastern Sacramento County. The complex was built dormitory-style with detached vocational workshops located outside the inner fence.

It has a capacity of 125 beds to house juvenile offenders with a history of serious or extensive behavior problems. The cost for housing each ward is \$133 per day plus the cost of educational resources. The age of the wards range from 14-18 years. Wards are classified into three risk categories. The risk status is based on various factors, e.g. gang affiliation, sex offenses, and the potential to harm self or other persons. The risk categories include:

1. High Risk - limited to the inner fenced area with academic services and counseling being provided.
2. Medium Risk - limited to either the inner or outer fenced area with academic services and, if earned, vocational education programs.
3. Low Risk – not limited to the inner fenced area and receive both academic and vocational education services.

The Sacramento County Office of Education (SCOE) provides for the educational needs of each ward. Unique to the Boys Ranch is an award winning vocational metal fabrication/welding program. Other vocational programs include woodworking, horticulture and computer graphics. Wards are able to learn a trade for use upon their release. Samples of their craftsmanship were displayed during our tour. Since our initial visit, the grand jury learned SCOE has hired a marketing instructor for the purpose of marketing items made by the wards. Mental health services are also provided.

During our tour, and talking with the staff, the grand jury noted a few areas of concern:

- Boys Ranch staff are concerned that the long-term effect of programs provided remain unknown due to the lack of a tracking system to follow the youth leaving this facility. Currently wards are receiving high school credits or working toward their GED, and many are gaining vocational skills.
- The location of the Boys Ranch makes it difficult for visits between wards and families.
- After release, the unique needs of some wards for structure and discipline may not be met by traditional public schools. Additionally, most schools have limited mental health services and vocational training.
- The biggest fear of staff at the Boys Ranch is the possibility of additional budget cuts and even closure of the facility.

The Sacramento County Grand Jury was impressed with the educational/vocational services, overall physical condition of the facility, morale, and friendly environment at the Boys Ranch.

California State Prison Sacramento

New Folsom

On October 15, 2009, the Sacramento County Grand Jury toured the California State Prison Sacramento. This facility is commonly called New Folsom. This tour was pursuant to Penal Code Section 919(b), which states, “The grand jury shall inquire into the condition and management of the public prisons within the county.”

The warden and members of his administrative staff met the grand jury. There was a brief discussion about the history of the prison, the different types of inmates housed, the variety of services provided, and the classification for housing and work assignments. The staff has two main concerns: the safety of staff and inmates, and the medical/mental care provided to inmates.

The briefing was informative and highlighted the wide variety of housing and program needs by inmates. The different types of inmates are:

- General Population (GP)
- Security Housing Unit (SHU)
- Administrative Segregation (AD-SEG)
- Inmates with Human Immunodeficiency Virus (HIV)
- Mental Health Services Delivery Systems (MHSDS), which includes the
 - Correctional Clinical Case Management Systems (CCCMS) and the Enhanced Out-Patient (EOP) Inmates
- Inmates with cancer

New Folsom opened in October 1986. The mission of the prison at that time was to house maximum-security inmates. These inmates have the highest classification score within the prison system. They are considered the most dangerous and may never get out of prison. Over the years the mission of the prison has changed, not only to house maximum-security inmates, but also to house inmates within the department’s MHSDS. The medical staff classifies the inmates as either CCCMS or EOP. The CCCMS inmate is normally housed with the general population and functions satisfactorily with or without medications. The EOP inmate is on medication and is placed in his own housing unit. Correctional and medical staff monitors both types of inmates.

Each inmate sent by the courts to the jurisdiction of the California Department of Corrections

and Rehabilitation (CDCR), while at a reception center, will be classified and seen by a group of correctional professionals called a Classification Committee. This committee will assign the inmate points as they relate to numerous factors regarding the inmate's life. These points are utilized to determine the correct housing, work assignment, educational needs, and threat status of the inmate. CDCR has four levels with Level 1 being the lowest and Level 4 the highest. New Folsom houses all levels within the prison walls. Level 1 and 2 inmates perform low risk, minimum-security work such as outside work crews and community work. Level 3 inmates perform work within the walls of the prison such as laundry, food services, and janitorial services. Level 4 inmates are placed within higher custody living areas. When they commit a serious rule violation, they may be removed from the GP and placed in AD-SEG or SHU.

The AD-SEG unit is utilized when an inmate commits a serious crime within the prison and is sentenced to a set time away from the general population. The SHU is utilized when an inmate commits a more serious crime within the prison or while in AD-SEG, or if he is a validated gang member, or his presence within the GP would jeopardize the safety and security of the inmates or staff.

Upon the completion of the briefing, the grand jury was escorted through the prison on a walking tour. The grounds of New Folsom are well kept, reflecting one of the vocational programs provided to inmates.

There are three main facilities (A, B, C) surrounded by razor wire approximately 12 feet high, followed by an electrified fence, followed by another 12 foot high razor wire fence. All of the buildings are made of concrete. Each facility has its own yard surrounded by the buildings. The GP inmates utilize these yards. Some of the facilities have individual yards, located within the individual buildings. These yards are used by the AD-SEG, SHU, and inmates with special medical needs. Most yards have a variety of sports equipment, basketball hoops, handball walls, and fitness exercise bars.

The cells within the housing units are 8 feet by 16 feet, crowded with personal items, clothing and food items. Some of the cells have televisions that have been purchased by the inmates. Some of the housing units have community televisions. Most cells have a bunk bed unit, shelves, a small desk, and a stainless steel sink and toilet.

The C Facility gym has been converted into a dormitory that houses Level 1 and 2 inmates. The capacity of this dorm is 175 GP inmates, living on bunk beds or triple bunk style beds.

The shower area and toilet area are open and the inmates take turns utilizing these facilities. This dorm is very cramped and appears to be a very uncomfortable living situation.

The staff at California State Prison Sacramento is very knowledgeable about their particular jobs and have a difficult task in performing their daily activities, which are to provide safety and appropriate medical/mental services for inmates.

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Folsom State Prison

On November 5, 2009, the Sacramento County Grand Jury toured Folsom State Prison (FSP). This tour was pursuant to Penal Code Section 919(b), which states, “The grand jury shall inquire into the condition and management of the public prisons within the county.”

Opened in 1880, Folsom State Prison (FSP) is the second oldest prison in California. (San Quentin State Prison is the oldest.) FSP was built on a 40-acre parcel. Its responsibility is to house medium security inmates in a secure and effective manner consistent with state, federal and relevant case laws. At the time of this tour the inmate population was 3,918 and FSP employed a total of 1,131 staff members. FSP contains four housing units with the most notable two being B-Block, the original cellblock, and Building 1, the largest prison housing building west of the Rockies. B-Block is constructed of granite rock and only houses Level 2 inmates; the average age of these inmates is 46 years old and most have received a sentence of 25 years to life. Building 1 houses 1,240 Level 3 inmates; its cellblock is five tiers high with 240 inmates on each of the four sides. This housing unit has a dining area, medical area, and yard. Twelve correctional officers and four armed officers secure the building. The remaining units at FSP are generally two-sided, five tiers high with 38-78 cells on each side. The cells are designed for double occupancy and each building has access to a yard and dining area.

A riot occurred on October 9, 2009, one of many that have occurred in recent years. In early November, 69% of the inmates remained on lockdown status due to riots between white and black inmates. As part of an effort to deter and document violent incidents, high definition cameras are being installed on the main yard, at a cost of \$100,000. These cameras will assist in identifying inmates who are involved in a disturbance and in prosecuting them when warranted. The cameras will improve the safety of civilian workers, staff, and inmates.

Inmates that meet the prison standard of good behavior have access to a variety of vocational/educational training as well as self-help programs. Vocational programs offered to inmates are metal fabrication, license plate production, electronics, auto mechanics and welding. These programs are designed to give inmates an opportunity to learn a trade prior to their parole. The goal of these programs is to reduce recidivism. Unfortunately, due to the state of the economy, this grand jury has concerns that many of these much needed programs may be eliminated, leaving inmates with few, if any, trade or life skills, and California prisons will continue to lead the nation in recidivism.¹

Folsom State Prison has a historical atmosphere and the grand jury found the visit to be very informative.

¹ On the State of California website, the governor points out that the ultimate goal of these programs is to reduce recidivism, which currently stands at 70%, the highest in the nation. The governor further points out, “We cannot fix our prisons without reducing recidivism, and we cannot reduce recidivism without creating more space and programs for prisons.” (<http://gov.ca.gov/index.php/fact-sheet/1084/>)

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Sacramento County Mental Health Services

A System in Crisis

Introduction

The Sacramento County mental health system is in crisis. Significant and continual cuts in funding have severely impaired the availability and delivery of mental health services to many people in our county. Without adequate funding, it is unlikely these problems will be resolved. What was once the largest mental health delivery system in California has deteriorated to a system that can only provide minimal services to the mentally ill.

We all share, to one degree or another, in the pain of the current economic crisis. The effects of the economy are amplified in the mentally ill population. Services have been cut drastically to this under-served population and they are suffering as never before. This situation puts a heavy strain on mental health patients, their families and friends, law enforcement, service providers, and the medical community.

The grand jury interviewed many individuals involved in the county mental health system and toured the Sacramento County Mental Health Treatment Center (hereafter referred to as the treatment center). This report is based on these interviews, as well as research of the Sacramento County Mental Health System.

Background and Facts

In Sacramento County there are four facilities that provide primary care services specific to mental health: Heritage Oaks, Sierra Vista, Sutter Psychiatric Services and the treatment center. Of the four, only the treatment center accepts patients without private health insurance. The other facilities occasionally will “help” by providing services to the uninsured, but this is rare.

At one time the Sacramento County Mental Health System was, by some accounts, the model for California. It operated a 100-bed facility, the largest Psychiatric Health Facility (PHF) in the state. This facility is located at the Sacramento County Mental Health Treatment Center on Stockton Boulevard. Included at this facility was a crisis unit, which was the main intake site for evaluation and referral of the mentally ill of all ages. The treatment center triaged many groups such as the developmentally disabled in crisis, the demented, those involved in domestic violence, and those under the influence of drugs or alcohol. The treatment center was the last resource for many mental health patients and their families. The crisis unit was a safety net for many agencies.

That safety net is gone! The number of beds in the treatment center has been reduced from 100 to 50, and the crisis unit has been closed. Law enforcement must now take these

individuals to emergency rooms at local hospitals. These emergency rooms are poorly equipped to treat them, as they lack adequate facilities and expertise to serve these patients. Mentally ill patients are now kept in emergency rooms until they can receive medical and/or psychiatric services.

The Department of Behavioral Health Services for the county is trying to mitigate the problems with two notable projects. First, there is a new tele-psychiatry program between UC Davis Medical Center (UCDMC) and the treatment center. This program provides remote video psychiatric consultations for patients at the UCDMC emergency room. This service is available to other area emergency rooms; however, for unknown reasons, to date none have elected to participate. Second, there is a program utilizing a hospital support team composed of on-call treatment center clinicians who can serve the emergency rooms most heavily impacted by the closure of the treatment center crisis unit. This team can help re-assess Section 5150⁴² holds, facilitate referral/coordination to programs with which the patient may be already associated, and ultimately help the hospital and patients deal with their situation.

In an effort to address the loss of 50 beds in the treatment center, Crestwood, a national for-profit corporation, recently opened a private 12-bed psychiatric health facility in Sacramento County. Because of its size, it will be eligible for MediCal reimbursement. A PHF must have 16 beds or less in order to qualify for MediCal reimbursement.

Even with the addition of this new facility and the programs being offered by the treatment center, services are woefully inadequate to serve the mentally ill and their families. Without adequate local, state, or federal funding or the further development of privately funded facilities, this problem will not be addressed. This is a major problem for our community; it demands attention and funding from the Sacramento County Board of Supervisors.

⁴² Section 5150 of the Health and Welfare Code provides that persons who have been deemed a danger to themselves or others can be held involuntarily for up to 72 hours.

Child Protective Services Follow-up Report

The 2009-2010 Sacramento County Grand Jury has held periodic meetings with management at Child Protective Services (CPS) to follow up on the many recommendations made in the 2008-2009 grand jury report, Nothing Ever Changes-Ever.⁴³ The grand jury also reviewed the CPS reports that were submitted to the Sacramento County Board of Supervisors and interviewed CPS management and social workers. CPS management expressed a commitment to implement most of the recommendations by the grand jury and those identified in a March 2009 report by MGT of America, a consulting firm commissioned by the board of supervisors. Many of the recommendations had already been implemented by the time of the grand jury's first meeting with CPS in September 2009.

Management and Leadership

Positive changes in management and leadership commitment within CPS and the Department of Health and Human Services have facilitated the implementation of most of the recommendations of the grand jury. CPS management has partnered with the Child Welfare League of America (CWLA)⁴⁴ to improve practices throughout the organization and to assist in developing a vision, changing the management plan, and implementing accountability mechanisms to ensure that these changes are made. CWLA has also met with front-line social workers to get their input for the changes needed in order to provide a better working relationship with management.

CPS has been working hard on previous problems with transparency and has been open and cooperative with the grand jury. On April 14, 2010, CPS held a community partners' meeting to share information on its reorganization, new programs, and outcome data information. Some of the partners at this meeting included Children's Receiving Home of Sacramento, Sacramento Children's Home, Foster Family Agency leaders, child advocates, Foster Care Ombudsman, among others. The plan is to continue to have these meetings quarterly to keep its community partners informed and to share ideas on how to work together to ensure better outcomes for children and families in need.

Personnel Evaluations

At the time of the last grand jury report, the majority of personnel evaluations were not being done throughout the CPS organization. In the spring of 2009, the county purchased a new evaluation tool, Performance Enhancement Program (PEP), for all employees. This tool must be customized for each job classification. This process requires staff time, which has slowed

⁴³ www.sacgrandjury.org

⁴⁴ www.cwla.org

implementation. The original start date of September 2009, was extended. As of February 2010, managers and supervisors had received their training on this new web-based tool. All supervisors and managers interviewed were aware of the directive to begin evaluations in March, and to complete all evaluations by December 2010. Thereafter, evaluations are to be completed annually on the employee's anniversary date. As of April 2010, 251 personnel evaluations were either completed or in progress. Use of the PEP tool will be tracked and reports will be sent to managers and supervisors. With recent personnel cuts of over 30%, it is even more critical for personnel evaluations to be performed to ensure employees perform effectively and efficiently.

Discipline and Human Resources

Communication between CPS management and the Sacramento County Personnel Services Department, commonly referred to as Human Resources (HR), has improved. An additional HR representative dedicated exclusively to CPS was added, and an HR representative now attends the director's weekly staff management meetings. HR has conducted a training seminar for supervisors on how to document and keep a desk file for staff discipline problems. Additionally, two employees from HR have been relocated to the two largest CPS sites, to be available immediately for management concerns and to give assistance.

The 2008-2009 Sacramento County Grand Jury reported seven employees on paid administrative leave due to pending disciplinary action. In November 2009, there were no CPS employees on paid administrative leave. On March 12, 2010, one employee was on paid administrative leave. Placing any employee on paid administrative leave must have the approval of the Director of Health and Human Services.

Recruitment and Retention

Due to the previous and ongoing budget cuts to CPS, resulting in a subsequent loss of personnel, recruitment and retention are currently not a concern. The turnover rate as of March, 2010, is basically zero.

As a result of a grand jury recommendation, a peer mentor classification for social workers was established. This provided an incentive for social workers. This classification would pair an experienced social worker who demonstrated excellence and knowledge in the program area with a new social worker.

Training

CPS reported that starting in July 2009, quarterly reports of the completion of the required annual training for social workers would be reviewed by the supervisors and kept in an informal desk file. These reports are to be reviewed and reflected in personnel evaluations.

Previously, some reports on training requirements were in error due to a problem with employee identification numbers in the training database. CPS reports this problem has been corrected.

Many social workers have been reassigned to new positions due to budget cutbacks. Much of the current training within the department is now primarily focused on reassigned workers.

Caseload

Social worker caseloads, which were high, have risen even more due to personnel reductions. Depending on the program, caseload levels vary greatly. Caseload levels have been described as “manageable” in some programs to “horrendous” in others, sometimes as much double the recommended level. The caseload increase has been offset somewhat by changes in the hotline/intake criteria which have resulted in opening fewer cases.

With budget cuts, the area that has suffered most is the timely submission of court reports. Previously, timely reports to the court were reported to be in compliance over 90% of the time. This rate has fallen to between 20-26%.

Information Technology

CPS Information Technology (IT) includes software, hardware and hotline recorders. CPS uses five software programs to facilitate its services to the community. They are:

- IRIS – Immediate Response Interactive System
- CRS – Continuous Run Schedule spreadsheet
- CWS/CMS – Child Welfare Services/Case Management System
- SDM - Structured Decision Making
- SafeMeasures - Performance tracking and evaluation tool

Last year the grand jury was impressed with these software packages but was concerned that they were not being used by many CPS personnel and did not have adequate safeguards to ensure proper use. Meetings were held with CPS management and IT personnel, and they reported that considerable progress has been made to ensure that all software is being used and in a correct manner.

CWS/CMS is the primary software tool that is used to track every child and family in the CPS system. Last year it was reported that this tool was being used adequately but social workers and management were allowed to change the records in the system without showing that

changes had been made. This has been corrected and now all modifications to the records must be shown as additions. No previous records can be deleted. All entries are now recorded by user, time, and date.

CRS is used by Emergency Response staff to keep track of which runner (field social worker) has received an Immediate Response (IR) referral on a given day and who is the next runner to be assigned an IR. This is a spreadsheet-based system, which keeps track of the status of each ER social worker on a daily basis. The supervisor of the day can see at a glance who is available, who is sick, who is on vacation, etc.

IRIS is a software program developed by CPS IT personnel. Management uses it to ensure that action is taken in a timely manner in Immediate Response cases. Last year the software was being used but not monitored by supervisors on an hourly basis. Grand jury recommendations for modifications and utilization of the software have been implemented.

Last year it was reported that the SDM tool was only used about 60% of the time. That has now risen to 100% for the front-end (intake and Emergency Response social workers) area. This has been a good step forward, but does have one drawback. Built into the design of the tool was the ability to override the SDM at the discretion of the intake worker taking the call. It was expected that this would be done about 10% of the time. Now, with the personnel cuts to the department, the directive is to open and refer a case only if it meets the strict criteria of the SDM tool. This does not allow a case to be opened on the gut feeling of the intake worker taking the report, or if "it just doesn't feel right." Because of this new policy it is felt that some cases that do not strictly meet the criteria will now be missed. This new policy has decreased the number of cases referred for investigation by approximately 200 per month. The average number of cases investigated per month is 900.

A recording program was purchased and installed in the Hotline (intake call center) in July 2009, and is being utilized full time. Staff was initially apprehensive about its implementation. They have come to appreciate its use when needed for review or to dispute complaints made against them following calls. The notification that all calls are being recorded has not decreased the number of incoming calls. In 2009, there were about 16,000 calls made to the hotline.

Netbooks are small laptop computers that have been issued to field social workers. Netbooks enable the social workers to wirelessly connect with their desktop computers. This allows them to remotely make entries into the CWS/CMS system and obtain data without returning to the office. This addition has improved social worker efficiency and effectiveness. Currently there are 104 netbooks that have been purchased and assigned to field social workers.

The grand jury wants to commend the CPS Information Technology personnel for developing, maintaining and operating an excellent set of software tools that greatly improve the effectiveness of the Emergency Response section of CPS (sometimes referred to as the “front end” of CPS). In particular, the grand jury commends Jalu Xiong, Emergency Response - Program Specialist, for his leadership and initiative exhibited while developing and maintaining these software programs.

Policy and Procedure Manual

At the time of last year’s report the policy and procedure manual was described as “an exercise in redundancy and fails in its purpose to provide concise and useable direction.” In September 2009, the grand jury was given a demonstration of the new online policy and procedure manual. The ease of use and the organization of the material were impressive. CPS staff is doing the work. When completed, the entire policy and procedure manual will be converted to an online version and there will no longer be a hard copy. They have currently completed 100% of the Emergency Response section of the manual but only 30% of the entire online manual. Due to budget cuts, the responsibility to complete different sections has been shifted, and several times the employee assigned to the task has been laid off. This has significantly slowed the completion of this project. All CPS personnel have access to the completed portions on their desktop computers. Social workers in the field can also access the policy manual for immediate referral on their netbooks. When completed, the online policy manual will be an excellent tool for all employees.

Legislative Needs

The Sacramento County Board of Supervisors did not accept the 2008-2009 Sacramento County Grand Jury recommendations for legislative changes. Two recommendations would have allowed greater access by the grand jury to review individual CPS cases. This situation has continued to frustrate the grand jury with this year’s investigation into foster care and hampered the ability of the grand jury to do a full investigation.

New Developments

Just when CPS was implementing many of the recommendations from last year’s grand jury report and was moving forward in a committed, positive direction, the Sacramento County Board of Supervisors hit CPS hard financially. These drastic budget cuts to CPS in the past year, with the resulting decrease in personnel of at least 30%, have had a devastating effect on the entire department. The number of staff lost this past year has been 293, from a previous total number of employees of about 1,000. With projected cuts, they will lose an additional 40 staff members this summer.

One of the results of these cuts was the temporary loss of medical clearance exams for children who are taken into protective custody. The loss of this contract triggered the subsequent loss of the contract for evidentiary exams done by UC Davis Medical Center; the clearance exam contract helped support the cost of evidentiary exams. A request for funds from First 5⁴⁵ has been approved recently to reinstate the clearance exams as of May 1. A new provider for the evidentiary exams has been sought. It will take at least a year for staff to gain the level of expertise needed for this type of exam to be useful in the successful prosecution of abuse cases. This is very disturbing for all those involved: the children, CPS and the court.

CWLA, that started its one-year contract last June, has worked with the CPS department to reorganize and focus on new strategies to improve outcomes. The three stated key outcomes are: improved safety, increased permanency for the child, and greater accountability.

Major aspects of the reorganization are focused on putting the children and families at the center of what CPS does. In an effort to achieve this goal the department is implementing several new elements.

1. As of March 2010, Emergency Response social workers handle a child's case until the detention hearing. Previously there were several hand-offs during the early period, which were confusing to the child and family, and made it harder for social workers to get to know the needs and problems facing the family.
2. Scheduled to start in the spring of 2010, foster children will have one social worker assigned to them from the beginning of their time in the system, until their case is closed either by returning to home safely, or by finding a permanent placement through adoption or guardianship. Previously, when a child switched to a different program, the child would be assigned a different social worker. The new system will allow social workers to become more familiar with each of the children assigned to their care and to better address their needs.
3. Social workers will be assigned to work in one of four geographic locations that are aligned with the larger school districts. The goal will be to keep the children in the same school and community with which they are familiar. Implementation is expected to occur in the spring of 2011.
4. Social workers from different programs will be combined to work in the same units. The previous system of care consisted of different programs, such as Emergency Response, Family Maintenance, Family Reunification, Permanency Services, and Adoptions. This will allow social workers with different expertise from their previous positions to help those who are in the same unit. Expected implementation is spring or summer of 2011.

⁴⁵ From the First Five Commission, <http://www.sackids.saccounty.net/>

Another major change for CPS has been the development of a new unit called the Centralized Placement Support Unit. This unit is modeled after other child protective programs that have fewer placement changes for the children in foster care in their county. The high number of placement changes has been a problem area for our county. More information about this unit is in this year's grand jury report on foster care.

In contrast to last year's grand jury report entitled, Nothing Ever Changes-Ever, this year has been a year of change for CPS, some good, some bad. The number of children and families being served has fallen, along with the budget and number of personnel. There were 1,200 child cases removed by CPS that were considered to be either of low or moderate risk. Resources to help these families and to prevent abuse have been shrinking along with the budget. This makes for a scary and untenable situation for those who have been working hard to decrease the incidence of abuse and neglect for the children in our county. The children who are in foster care should benefit from the many reorganizational changes that are taking place. It is yet to be determined if the level of care and safety needed by children can be sustained if CPS has to endure more budget cuts. The Sacramento County Grand Jury commends CPS for its efforts to make improvements in an atmosphere of criticism and uncertainty. CPS will need the continuing cooperation and help of all its community partners to be able to accomplish its goals of reducing abuse and neglect of the children of Sacramento County.

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Sacramento County Traffic Fines

What You See Isn't What You Get

1.0 Summary

This is a report about traffic violation fines in Sacramento County. It does not intend to judge or criticize any of the fine amounts or the process once a ticket has been issued. It is solely designed to let the public be aware that the roadside sign or media information used to disclose the fine amount, in many cases, may not be correct. For example, with the new cell phone laws, many people believe that the first offense fine for talking on a cell phone while driving is \$20. This belief is incorrect. The actual amount is \$148. How can this be? The “base” fine or published amount is \$20 but there are fees and assessments that are added that increase the base fine amount by \$128, thereby making a total fine of \$148.

The generally understood reason for assessing fines for traffic violations is to increase compliance with the law. The main purpose of the law is to improve public safety. Logic would seem to dictate that the higher the perceived fine the greater the public compliance. If the public believes a fine is less than the actual amount the reverse may occur, at the expense of public safety.

2.0 Method

Internet searches and telephone calls to state, county and city personnel were used to gather information for this report. Newspaper and television programs were monitored to see what information about traffic fines was being given to the public. The displayed fine amounts on street signs were monitored and compared to the actual total fines. Additionally, letters were sent requesting information on how the fine system works. City management personnel were interviewed. The fine table (See Table 1 in Section 3.1) and additional information shown in this report were taken from the Sacramento County Superior Court website.⁴⁶

3.0 Background and Facts

California, like most states, adds fees, penalties and other assessments to pay the cost of processing fingerprints and criminal history information, DNA testing, etc. For the full range of California programs funded by fees, surcharges, and penalty assessments, see Table 1 in Section 3.1 of this report or visit the Superior Court website.

Penalty assessments began to be added to traffic fines in California over 45 years ago to help finance the State School Fund, which funded driver education programs for local school districts. Ironically, most California schools no longer offer driver education classes. The assessment was based on the concept of an “abusers fee,” in which those who break or abuse certain laws help finance programs related to decreasing violations.

In 1981, the state legislature increased the number of crimes and offenses subject to penalty assessments and increased the rates. This legislation included traffic violations. The term “penalty assessment” is often applied broadly by sentencing courts. These funds flow to a

⁴⁶ <http://www.saccourt.ca.gov/traffic/traffic.aspx>

multitude of special state and county accounts, such as the state General Fund, the State Judicial Council, the State Penalty Assessment Fund and various county funds. These funds support a variety of criminal justice programs at the state and county levels, as well as courthouse construction, county security and detention facility construction. A number of state and county programs are now financed by penalty assessment funds. Each of these assessment categories is imposed at the county level as limited by state law. Each violation listed on a ticket is assessed a base fine. In addition to the base fine, there are additional assessments added to make up the total fine amount. The fine can also be increased by convictions for prior violations on a person's driving record and other special considerations (e.g. construction zone, school zone, business district, senior center zone, or railroad crossing enhancements). The amounts shown below are applicable to Sacramento County. Other counties fines vary by minor amounts.

Effective January 1, 2009, total fines for traffic violations are calculated as follows:

- Base Fine set by the state legislature and the Judicial Council of California.
- Penalty Assessment: Penalty assessments are allocated for such items as court and jail facility construction and other items as noted below:
 - \$10 per \$10 base fine Penal Code (PC) 1464 goes 70% to State Trial Court Trust Fund; 30% to County General Fund
 - \$2 per \$10 base fine Government Code (GC) 76100 goes to the County Courthouse Construction Fund
 - \$2.50 per \$10 base fine GC 76101 goes to the County Jail Construction Fund
 - \$0.50 per \$10 base fine GC 76102 goes to County Automated Fingerprint Fund
 - \$2 per \$10 base fine GC 76104 goes to Maddy Emergency Medical Fund (State/County split)
 - \$3 per \$10 base fine GC 70372.(a) goes to State Court Facilities Construction Fund
 - \$1 per \$10 base fine GC 76104.6 goes to the DNA Identification Fund (County/State split)
 - \$1 per \$10 base fine GC 76104.7 goes to the DNA Identification Fund (County/State split)
 - \$2 per \$10 base fine GC 70372(a) goes to the State Court Facilities Construction Fund – Immediate and Critical Needs Account (ICNA)
- Night Court Assessment Fee pursuant to Vehicle Code (VC) 42006 (\$1)
- DMV record fee pursuant to VC 40508.6 (\$10)
- Twenty percent criminal surcharge pursuant to PC 1465.7 (20% of base fine)
- Court Security Fee pursuant to PC 1465.8 (\$30)
 - Criminal Conviction Assessment pursuant to GC 70373 goes to the State Court Facilities Construction Fund – ICNA (\$35)

Table 1 Breakdown of Traffic Fines in Sacramento County

Violation	Base Fine	Penalty Assess-ment	State Court Facilities Construction (ICNA)	Night Court fee	DMV Fee	20% Criminal Surcharge	Criminal Conviction Assess-ment	Court Security Fee	Total Fine Due
VC 12814.6 Failure to obey license provisions.	35.00	88.00	8.00	1.00	10.00	7.00	35.00	30.00	214.00
VC 14600(A) Failure to notify DMV of address change within 10 days <i>Note:</i> The fine may be reduced with valid proof of correction.	35.00	88.00	8.00	1.00	10.00	7.00	35.00	30.00	214.00
VC 16028(A) Failure to provide evidence of financial responsibility (insurance) <i>Note:</i> This fine may be reduced with proof of insurance on or after the violation date.	200.00	440.00	40.00	1.00	10.00	40.00	35.00	30.00	796.00
VC 21453(A) Failure to stop at a red signal.	100.00	220.00	20.00	1.00	10.00	20.00	35.00	30.00	436.00
VC 22350 VC 22349 Unsafe Speed, 1 to 15 miles over the limit.	35.00	88.00	8.00	1.00	10.00	7.00	35.00	30.00	214.00
VC 22350 VC 22349 Unsafe Speed, 16 to 25 miles over the limit.	70.00	154.00	14.00	1.00	10.00	14.00	35.00	30.00	328.00
VC 22450 Failure to stop at a stop sign.	35.00	88.00	8.00	1.00	10.00	7.00	35.00	30.00	214.00
VC 22454(A) Passing a school bus with flashing red signals.	150.00	330.00	30.00	1.00	10.00	30.00	35.00	30.00	616.00

Table 1 (Continued)

Violation	Base Fine	Penalty Assess-ment	State Court Facilities Construction (ICNA)	Night Court fee	DMV Fee	20% Criminal Surcharge	Criminal Conviction Assess-ment	Court Security Fee	Total Fine Due
VC 23123(A) Drive using wireless phone not hands free, First offense	20.00	44.00	4.00	1.00	10.00	4.00	35.00	30.00	148.00
VC 23123(A) Drive using wireless phone not hands free, For each subsequent offense.	50.00	110.00	10.00	1.00	10.00	10.00	35.00	30.00	256.00
VC 23123.5(A) Drive while wireless device to send, read or write text.	20.00	44.00	4.00	1.00	10.00	4.00	35.00	30.00	148.00
VC 23124(B) Minor drive using wireless phone.	20.00	44.00	4.00	1.00	10.00	4.00	35.00	30.00	148.00
VC 22500(I) Parking in a bus loading area.	250.00	550.00	50.00	1.00	10.00	50.00	35.00	30.00	976.00
VC 22507.8(A through C) Violation of disabled parking provisions, first offense.	250.00	550.00	50.00	1.00	10.00	50.00	35.00	30.00	976.00
VC 22507.8(A through C) Violation of disabled parking provisions, second offense.	500.00	1100.00	100.00	1.00	10.00	100.00	35.00	30.00	1876.00
VC 26708(A) Unlawful material on vehicle windows.	25.00	66.00	6.00	1.00	10.00	5.00	35.00	30.00	178.00
VC 27150(A and B) Adequate muffler required	25.00	66.99	6.00	1.00	10.00	5.00	35.00	30.00	178.00
VC 27315(D and E) Mandatory use of seat belts.	20.00	44.00	4.00	1.00	10.00	4.00	35.00	30.00	148.00

Table 1 (Continued)

Violation	Base Fine	Penalty Assessment	State Court Facilities Construction (ICNA)	Night Court fee	DMV Fee	20% Criminal Surcharge	Criminal Conviction Assessment	Court Security Fee	Total Fine Due
VC 27803 (A through C) Motorcycle safety helmet requirements.	25.00	66.00	6.00	1.00	10.00	5.00	35.00	30.00	178.00
VC 34506.3 Commercial Driver - Log book violation	150.00	330.00	30.00	1.00	10.00	30.00	35.00	30.00	616.00
VC 4000(A) No evidence of current registration. <i>Note:</i> The fine may be reduced with valid proof of correction.	50.00	110.00	10.00	1.00	10.00	10.00	35.00	30.00	256.00
VC 4159 Notify DMV of change of address within 10 days. <i>Note:</i> The fine may be reduced with valid proof of correction.	25.00	66.00	6.00	1.00	10.00	5.00	35.00	30.00	178.00
VC 5200 Display of license plates. <i>Note:</i> The fine may be reduced with valid proof of correction.	25.00	66.00	6.00	1.00	10.00	5.00	35.00	30.00	178.00
VC 9400 (A through C) Commercial weight fees due. <i>Note:</i> The fine may be reduced with valid proof of correction.	25.00	66.00	6.00	1.00	10.00	5.00	35.00	30.00	178.00

4.0 Conclusion

After researching traffic fines in Sacramento County, the grand jury has concluded that the public interest and safety will be better served when the public is aware of the total fine amount. It is important that the correct fine amounts be publicized in a clear, effective, and appropriate manner. If this is not done, people are less likely to comply with traffic laws and public safety will be negatively impacted.

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GRAND JURY COMPLAINT FORM

GRAND JURY USE ONLY:

Date Received: _____

Number: _____

Subject: _____

PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

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

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

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 _____

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