

JUN 24 2016

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

Final Report

of the

2015-2016

Sutter County Grand Jury



Steven W. Meyer
Foreperson



Honorable Brian R. Aronson
Presiding Judge



SUTTER COUNTY GRAND JURY

The Honorable Brian R. Aronson
Sutter County Superior Court
1175 Civic Center Boulevard
Yuba City, CA 95993

Dear Judge Aronson:

In compliance with the California Constitution and in accordance with California Penal Code Section 933(a), the appointed 2015-2016 Sutter County Grand Jury, would like to submit their final report to the Court and the residents of Sutter County.

The members of the Grand Jury have dedicated countless hours by attending over 350 meetings, by interviewing over 52 Sutter County present and past employees, and by touring numerous County facilities. The Grand Jury has spent many hours researching, discussing, and debating our findings. This report is a collaborated effort of 18 jurors with different personalities, different opinions, and different backgrounds.

The Grand Jury would like to thank the Honorable Judge Aronson for his faith and confidence in us. His guidance and advice has been a huge asset to this Grand Jury. It has been an honor to have him as our Presiding Judge.

The Grand Jury appreciates the guidance that Sutter County District Attorney Amanda Hopper and her team has given us throughout the year.

The Grand Jury would like to thank the Probation Department for the use of their facilities and equipment. A huge thank you to Donya Thompson and her secretary, Mary Langan, for always accommodating us when there were last minute changes to their schedule.

The Grand Jury would like to also thank all the County agencies and their department heads for their cooperation with us throughout the year.

I would personally like to thank Jackie Laswell, Grand Jury Clerk for Sutter County Courts, for all her assistance and expertise in administrative matters relating to the Grand Jury.

I would especially like to thank all the members of the 2015-2016 Sutter County Grand Jury. Their dedication and hard work has made my job, as the Foreperson, a very enjoyable experience. The knowledge and expertise they all brought to this Grand Jury made it a pleasure to work along side them and learn from them.

Last, but not least, I would like to thank our ProTem, Teresa Smith, for her making sure that our meetings were running on schedule. A special thank you to Andrew Sampeck, our secretary, for keeping us in compliance with penal codes and the Browns Act. His commitment to the Grand Jury has been exceptional.

The information that has been gathered for this report shows the members of the Grand Jury's dedication to the responsibilities we have been given. I am proud to put my signature along side my fellow jurors. I cannot express my gratitude enough for all their hard work throughout this term.

I would, above all, like to thank the Grand Jurors' families for their support and understanding of what it entails to be a member of the Grand Jury. We are away from home for many hours during the year trying to make Sutter County a better place, not only for our families , but all residents and people working in the County.

Serving on the Grand Jury for the last two years, this year as Foreperson, has been a very gratifying and rewarding experience. It has been an honor to work with all of the 2015-2016 Sutter County Grand Jurors. It has been a privilege to serve as the 2015-2016 Sutter County Grand Jury Foreperson.

Respectfully,

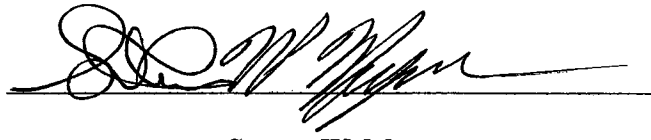
A handwritten signature in black ink, appearing to read 'Steven W. Meyer', with a long horizontal flourish extending to the right.

Steven W. Meyer, Foreperson
2015-2016 Sutter County Grand Jury

Report
Of the 2015-2016
Sutter County Grand Jury

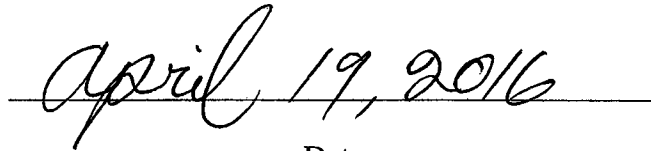
Steven Meyer-Foreperson, William Carter, Christy Cook-Pratt, Marianne Ethington, Pablo Fischetti, John Forberg, Kristen Hart, Addam Heltsley, Richard Libby, Jacquelyn McLaughlin, Gerald Marta, Carrie Mitchell, Perry Pasquale, Annette Roach, Andrew Sampeck, Teresa Smith, Richard Snyder, Gail Stillwell

Final Report [pursuant to Penal Code 933(a)]



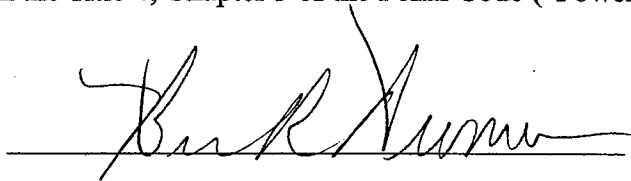
Steven W. Meyer

2015-2016 Foreperson



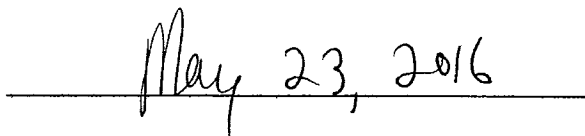
Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the findings that the foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code ("Powers and Duties of the Grand Jury").



Honorable Brian R. Aronson, Presiding Judge

Superior Court of California, County of Sutter



Date

2015-2016 Signature Page



Steven W Meyer



Andrew K Sampeck



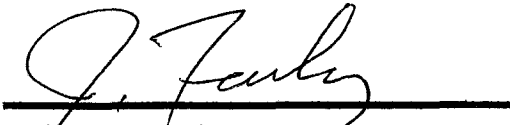
Annette Roach



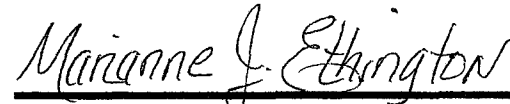
Christy A Cook Pratt



Gerald D Marta



John D Forberg



Marianne J Ethington



Perry D Pasquale



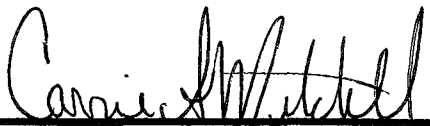
Richard D Snyder



Teresa A Smith



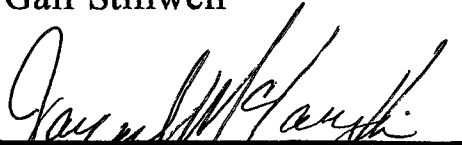
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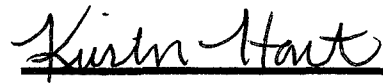
Carrie A Mitchell



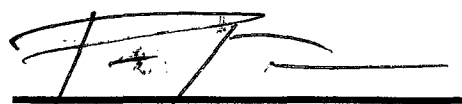
Gail Stillwell



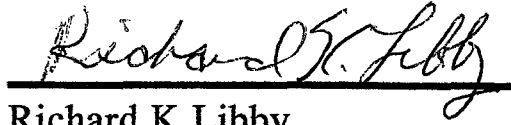
Jacquelyn A McLaughlin



Kristen S Hart



Pablo Fischetti



Richard K Libby



William Carter

ENDORSED FILED

MAY 27 2016

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of the
2015-2016
Sutter County Grand Jury

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

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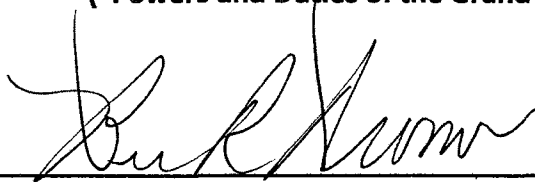
Final Report [pursuant to Penal Code 933(a) on subject:
Board of Supervisors' Response to the
2014-2015 Sutter County Grand Jury Final Report



Steven Meyer
2015-2016 Foreperson

May 18, 2016
Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code
("Powers and Duties of the Grand Jury").



Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County

May 20, 2016
Date

BOARD OF SUPERVISORS' RESPONSE TO 2014-2015 SUTTER COUNTY GRAND JURY FINAL REPORT

SUMMARY

The Sutter County Grand Jury (SCGJ) is an investigatory body created for the protection of society and the enforcement of the law within the County. All complaints submitted to the SCGJ are treated confidentially. California Penal Code (PC) Section 911 in part states, *"I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury."* In other words, the SCGJ protects sources, encourages candor among jurors, and all information not in final reports remains confidential. Each jury works independently of its predecessors and successors.

The SCGJ's monitoring of the responses to final reports is not required by law. However, governing boards (i.e.: the Sutter County Board of Supervisors (BOS)) are required to respond to the findings and recommendations directed to them in a final grand jury report within ninety days. Elected officials' and agency heads' responses are due within sixty days. Responses must be forwarded to the Presiding Judge of the SCGJ. (PC Section 933(c)) The BOS did not respond within the ninety days for the 2014-2015 SCGJ Final Report. Additionally, the Sutter County Sheriff's response was not received by the Presiding Judge. However, the SCGJ does acknowledge that the Sheriff's response was submitted as a part of the BOS' response.

The BOS' Response to the 2014-2015 SCGJ Final Report, in multiple instances, did not provide a timeframe or provided an unacceptable timeframe according to PC Section 933.05. Additionally, the Sutter County District Attorney did not provide an acceptable timeframe in its response. It is the recommendation of the SCGJ that all Sutter County governing boards, elected officials, and agency heads be diligent to follow PC when submitting their required responses to grand jury reports.

There are multiple options by which citizens of Sutter County can bring concerns within the County to the attention of the SCGJ. These concerns are acknowledged and investigated confidentially for their validity, if under its jurisdiction, the SCGJ takes appropriate and corrective action when the situation warrants it.

BACKGROUND

"In our system of government, a grand jury is the only agency free from possible political or official bias that has an opportunity to see ... the operation of government ... on any broad basis. It performs a valuable public purpose in presenting its conclusions drawn from that overview. The public may, of course, ultimately conclude that the jury's fears were exaggerated, or that its proposed solutions are unwise. But the debate ... could lead only to a better understanding of public governmental problems." (Monroe v. Garrett, (1971) 17 Cal. App. 3rd 280)

The California Constitution mandates that "one or more grand juries shall be drawn and summoned at least once a year in each county." For many decades, county grand juries have served as both criminal grand juries issuing indictments and as civil grand juries investigating

local governments. There has been a grand jury operating in each county in California for over 160 years.

Continuity is a subject not explicitly addressed in the PC. However, the SCGJ can derive an understanding of continuity from the law and past practices. Continuity is defined as "an uninterrupted succession or flow; a coherent whole" (*American Heritage Dictionary*) and an "uninterrupted connection; unbroken succession; close union of parts" (*Webster's Revised Unabridged Dictionary*). Continuity means that the SCGJ is not alone as a grand jury. The SCGJ has much to draw on from its predecessors and will likely have much to pass on to its successors. Continuity is not just following up on what previous grand juries have done. Continuity also looks forward. It includes taking steps to provide future grand juries the resources they will need.

RESOURCES

The Penal Code of California forms the basis for the application of criminal law in the state of California. It was originally enacted in 1872 as one of the original four California Codes, and has been substantially amended and revised since then.

The SCGJ reviewed:

- PC Sections 911, 924, 924.1, 924.2, and 929
- PC Section 933(c) states: *"Not later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elective county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations ..."*
- PC Section 933.05 states: *"(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following: (1) The respondent agrees with the finding. (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor. (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions: (1) The recommendation has been implemented, with a summary regarding the implemented action. (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing*

body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report. (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor..."

- 2014-2015 Sutter County Grand Jury Final Report
- Response Matrix to 2014-2015 Grand Jury Final Report
- BOS' Response to the 2014-2015 SCGJ Final Report

DISCUSSION

In California, the grand jury is an instrumentality of the court, subject to the superior court's general supervision. Empowered by the judicial system, the SCGJ is a fact-finding body that develops meaningful solutions to a wide range of government problems, thereby facilitating positive change in Sutter County.

As an investigatory body, the responsibilities of the SCGJ are many and diverse. However, there are three predominant functions of the SCGJ:

CIVIL WATCHDOG RESPONSIBILITIES

The SCGJ may examine all aspects of county and city government and special districts to ensure that the best interest of Sutter County citizens is being served. The SCGJ reviews and evaluates procedures, methods, and systems utilized by County government to determine whether more efficient and economical programs may be employed.

CITIZEN COMPLAINTS

The SCGJ receives many letters from citizens alleging mistreatment by officials, suspicions of misconduct, or governmental inefficiencies. Complaints received from citizens are acknowledged and investigated confidentially for their validity. If the situation warrants, and corrective action is under the jurisdiction of the SCGJ, appropriate action is taken.

CRIMINAL INVESTIGATIONS

Under certain circumstances, the SCGJ holds hearings to determine whether evidence presented by the Sutter County District Attorney is of sufficient nature to warrant persons having to stand trial in court. This function of the SCGJ is rarely utilized.

Most SCGJ "watchdog" findings are contained in reports describing problems encountered and making recommendations for solutions. A governing board that receives a report usually refers it to staff to prepare a draft response to the findings and recommendations. The draft response is then placed on the board's meeting agenda for its consideration, either on the regular agenda for a full public airing or on the consent calendar, where it is adopted together with other routine items. Once approved, responses must be forwarded to the Presiding Judge. (PC Section 933(c)) The court usually forwards them to the sitting grand jury. The BOS submitted their response to

the 2014-2015 SCGJ Final Report to the Presiding Judge after the date the response was due. The BOS had ninety days to submit a timely response.

As an elected official, the Sutter County Sheriff is required to submit a response to the final grand jury report's findings and recommendations that apply to its office, both to the Presiding Judge of the SCGJ and an informational copy to the BOS within sixty days. (PC Section 933(c)) The Sheriff's response was not received by the court. However, the SCGJ acknowledges that the response was submitted with the BOS' response.

The PC also governs response content. For each finding in the report, PC Section 933.05(e) requires the responding governing board or official to give one of two possible responses:

- 1) agrees with the finding, or
- 2) disagrees wholly or partially with the finding, with an explanation of the disagreement.

To each recommendation, the board or official is required to select one of four possible responses (PC Section 933.05(b)):

- 1) it has been implemented, with a summary of the action taken;
- 2) it will be implemented, with a timeframe for implementation;
- 3) it requires further analysis, with an explanation and the scope of the analysis, and a timeframe for response of up to six months from the release of the report; or
- 4) it will not be implemented because it is not warranted or is not reasonable, with an explanation.

Monitoring the responses to grand jury reports helps maintain pressure on local government agencies to respond to grand jury reports and to follow through on implementing those recommendations with which they concur. Only by constant vigilance and follow-up can the proven effectiveness of grand juries be maintained. The SCGJ's monitoring of responses, while not legally required, can be divided into these three levels:

- **Compliance** - This is a simple determination that the response met the legal requirements of PC Section 933 and Section 933.05 with respect to the timeliness of the response and the mandated format and content. If the response fails this test, the SCGJ may conduct a new investigation and publish a follow-up report that will focus additional attention on the topic and the public agency that failed to meet the timeline or comply with the legally mandated response format and content.
- **Responsiveness** - A determination that the response reflected that the entity understood the issues in the report and responded accordingly. In other words, the response was clear and not evasive. If the SCGJ wants the entity to readdress the issues, the only action possible is to initiate a full new investigation and issue a report.

- Implementation - A determination as to whether the official or entity did as it stated it would do in its response. This is the most difficult area to address, as significant time may elapse before it is possible to verify whether the entity has done what it stated it would do. The SCGJ may conduct a full investigation and write a report concerning an entity's implementation efforts.

When a responder has agreed to implement grand jury recommendations, the PC requires a time frame for implementation. A time frame is also required if the responder states that further analysis is required. Specifically, PC 933.05(b) in part states: *"This timeframe shall not exceed six months from the date of publication of the grand jury report."* The BOS' Response to the 2014-2015 SCGJ Final Report contains multiple instances where the response does not include a timeframe or an unacceptable timeframe is given. Additionally, the Sutter County District Attorney's response was not compliant with the PC with respects to the timeframe given.

PC prevents the SCGJ from disclosing any information gathered during its investigations that is not released in the final report. Additionally, reports issued by the SCGJ do not identify individuals interviewed. Penal Code Section 929 requires that reports of the SCGJ not contain the name of any person or facts leading to the identity of any person who provides information to the SCGJ. Therefore, it is the responsibility of the SCGJ to protect the confidentiality of all individuals during the entire investigation process. This allows interviewees the confidence of anonymity, thereby providing the SCGJ with a greater ability to conduct a thorough investigation.

Included in the cover letter of the BOS' Response to the 2014-2015 SCGJ Final Report, the Chief Administrative Officer (CAO) invites the SCGJ to meet *"to discuss any or all these issues."* While the SCGJ can appreciate the desire of the CAO to try to resolve County issues, PC prevents such interaction. The responsibilities and jurisdiction of the SCGJ is limited to the confidential investigation process that leads to a final grand jury report.

The SCGJ welcomes letters from citizens alleging mistreatment by officials, suspicions of misconduct, and/or governmental inefficiencies. Additionally, the Sutter County Courts website has an electronic complaint form available. Complaints received from citizens are acknowledged and may be investigated confidentially for their validity. The SCGJ takes appropriate action when the situation warrants and when recommended corrective action is under its jurisdiction.

FINDINGS

- F1. The BOS' Response to the 2014-2015 SCGJ Final Report was received by the Presiding Judge after the date the response was due.
- F2. The BOS' Response to the 2014-2015 SCGJ Final Report did not follow California Penal Code Section 933.05 with respects to the mandated format and content. Additionally, the Sutter County District Attorney did not provide an acceptable timeframe in its response.

- F3. The Sutter County Sheriff's Response to the 2014-2015 SCGJ Final Report was not received by the Presiding Judge.
- F4. The CAO invited the SCGJ to meet to discuss issues covered in the BOS' Response to the 2014-2015 SCGJ Final Report.
- F5. The SCGJ has a complaint form that may be utilized by citizens to allege mistreatment by officials, suspicions of misconduct, and/or government inefficiencies.

RECOMMENDATIONS

- R1. All BOS and elected officials' responses shall follow California Penal Code Sections 933(c) and 933.05 with respect to the timeliness of the response and the mandated format and content.
- R2. The Sutter County Sheriff shall follow California Penal Code Sections 933(c) with respect to response submission to the Presiding Judge.
- R3. The BOS shall fully review the responses to the grand jury final report before approval for statements made by representatives of the County for accuracy with respect to California Penal Code (ie: Section 911 and 929).
- R4. Citizens with concerns regarding County or City government, that are within SCGJ jurisdiction, should submit a complaint. You may submit a complaint to the SCGJ using the form attached or by accessing the Sutter County Courts website at www.suttercourts.com/general-info/grand-jury/submit-complaint. You may print the form then later type in or fill in with ink all of the fields of information that apply to your concern and the issue(s) you have identified. Or, you may fill out the form electronically. After filling out the form, print the document, sign it attesting to the information, and mail to the address noted on the form. You are encouraged to attach additional information or documents that contribute information to your concern. Completed forms that are brought to the court for delivery to the SCGJ must be in a sealed envelope. All complaints submitted to the SCGJ are treated confidentially.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Sheriff (F3, R2)
- Sutter County District Attorney (F2, R1)
- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County Chief Administrative Officer

BIBLIOGRAPHY

2015-2016 California Grand Jurors' Association Training Manual

2015-2016 Sutter County Grand Jurors' Handbook

California Grand Jurors' Association Compendium of California Grand Jury Law

Sutter County Courts Grand Jurors' Website

APPENDIX

SUTTER COUNTY GRAND JURY CITIZEN COMPLAINT FORM

Response Matrix to 2014-2015 Grand Jury Final Report

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

SUTTER COUNTY GRAND JURY
CITIZEN COMPLAINT FORM

All complaints submitted to the Grand Jury will be treated confidentially.

MAIL TO:

SUTTER COUNTY GRAND JURY
Attention: Foreperson
P.O. Box A
Yuba City, CA 95992

Date: _____

(1) COMPLAINT

Your Name: _____

Home Address: _____

Home Phone: _____ Driver's License No.: _____

Work Address: _____

Work Phone: _____

(2) PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE

Name: _____

Address: _____

Phone: _____

Person in Charge (if an agency): _____

(3) BRIEF SUMMARY OF PROBLEM (Include dates of all events, names of persons or agencies involved, etc.)

(Attach additional sheets as necessary)

(4) WHAT OTHER PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT THIS PROBLEM?

Name and/or Agency	Address	Date of Contact
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(5) PLEASE ATTACH ANY CORRESPONDENCE OR DOCUMENTS YOU HAVE RELATING TO THE PROBLEM.

(6) WHEN DID YOU FIRST LEARN OF OR DISCOVER THE PROBLEM?

(7) WHOM DO YOU THINK SHOULD BE CONTACTED ABOUT THIS PROBLEM?

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact _____

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact _____

(Add additional pages for persons as necessary)

(8) WHAT ACTION DO YOU WANT THE GRAND JURY TO TAKE?

(Signature)

CONTENTS

Response Matrix to 2014-2015 Grand Jury Final Report
Reponses filed on 9/24/15 with Superior Court of California, County of Sutter

SUTTER COUNTY AUDITOR-CONTROLLER

SUTTER COUNTY DISTRICT ATTORNEY'S OFFICE

YUBA CITY – WASTEWATER TREATMENT PLANTS

**Response Filed 9/30/15 with the Superior Court of California,
County of Sutter**

THE SUTTER COUNTY BOARD OF SUPERVISORS

Response Matrix for the 2014-2015 Grand Jury Final Report

The Following matrix is for the 2013-2014 Grand Jury's activities and notes agencies inspected or investigated. The matrix denotes agencies elected and non-elected officials and the date for which they are responsible to respond to the Grand Jury Final Report (90 days of receipt of the Final Report for county and city administered officials and 60 days from receipt for elected officials under Penal Code Section 933 (c)).

	Agency Required to Respond	Elected Official	Date Response Due	Date Response Received	Responsible for Responses
1	Sutter County Fire Chief Fire and Emergency Committee	No	9/24/15		Dan Yager
2	Sutter County Board of Supervisors Fire and Emergency Committee Sutter County District Attorney Sutter County Health/Mental Health/ Social Services Sutter County Human Services: Welfare & Social Services Division Sutter County Internal Auditor Sutter County Jail Medical Sutter County Sheriff's Office Communication and Promotional Opportunities	Yes	8/24/15	09/30/15	Sutter County Board of Supervisors
3	Sutter County District Attorney Sutter County Auditor/Controller Sutter County District Attorney	Yes Yes	8/24/15 8/24/15	9/10/15 8/14/15	Amanda Hopper, District Attorney Nathan Black, Auditor/Controller
4	Sutter County Administrator Sutter County Health/Mental Health/Social Services	No	9/24/15		James Arkens, Sutter County Administrator
5	Sutter County Administrator Sutter County Human Services Director	No No	9/24/15 9/24/15		James Arkens, Sutter County Administrator/HR Director Tom Sherry, Sutter County Human Services Director

6	Sutter County Auditor/Controller	Yes	8/24/15	8/14/15	Nathan Black, Auditor/Controller
	Sutter County Administrator	No	9/24/15		James Arkens, Sutter County Administrator
	Sutter County Internal Auditor				
7	Sutter County Sheriff	Yes	8/24/15		J. Paul Parker, Sutter County Sheriff
	Sutter County Jail Medical				
8	Sutter County Sheriff Communication and Promotional Opportunities Sutter County Sheriff's Office	Yes	8/24/15		J. Paul Parker, Sutter County Sheriff
9	Yuba City Council	Yes	8/24/15	7/27/15	John Dukes, Mayor
	Sutter County Public Works	No	9/24/15		Mike Paulucci, Deputy Public Works Director
	Wastewater Treatment Plants				

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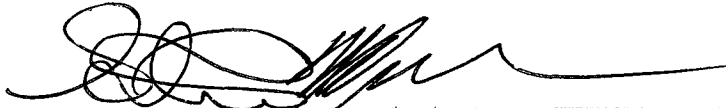
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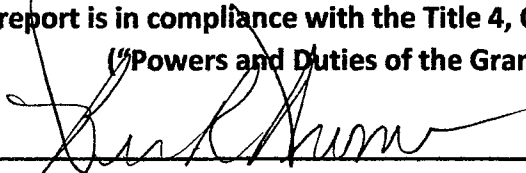
**Final Report [pursuant to Penal Code 933(a) on subject:
Chevron Solar Energy Savings Project**



**Steven Meyer
2015-2016 Foreperson**

May 18, 2016
Date

**Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code
("Powers and Duties of the Grand Jury").**



**Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County**

May 20, 2016
Date

CHEVRON SOLAR ENERGY SAVINGS PROJECT

SUMMARY

On February 25, 2014, the Sutter County Board of Supervisors (BOS) approved a contract with Chevron Energy Solutions (ES) to implement several energy related improvements at Sutter County facilities; including the construction of ten photovoltaic (solar powered) generating facilities. Also on February 25, 2014, the BOS approved a Master Equipment Lease-Purchase agreement with PNC Equipment Finance LLC, which is intended to fund the proposed improvements. It was anticipated that the energy saved by the solar powered improvements would pay for the anticipated cost of the "Performance Contract Agreement" (Chevron Project).

BACKGROUND

On July 10, 2015, the Appeal-Democrat published an article titled "*Faulty bookkeeping for \$9M in Sutter County.*" The article stated that "*In the midst of an otherwise uneventful Sutter County audit[,] became the matter of an unrecorded \$9.1 million. The money was borrowed and partially spent but never entered into the county's ledger.*"

In an effort to determine if the County had followed the correct method in obtaining the loan for the planned solar arrays, if the money was fully accounted for, and whether or not the Auditor-Controller was properly informed about the project, the SCGJ initiated a full investigation into the process of the loan as well as the responsible departments.

RESOURCES

The SCGJ:

- Interviewed:
 - Former chairman of the Sutter County BOS
 - County Administrative Officer
 - Assistant County Administrative Officer
 - Former Auditor-Controller
 - Current Auditor-Controller
 - General Services Director
 - Representatives of the County
- Reviewed Documents:
 - Chevron ES Performance Contract Agreement
 - Chevron ES Services Contract
 - Master Equipment Lease-Purchase Agreement
- Inspected Multiple Solar Array Sites

DISCUSSION

On July 23, 2013, the BOS approved a Program Development Agreement with Chevron ES to develop the project. On January 23, 2014, a staff report was submitted to the Public Works/Support Services Committee for review. Two Supervisors reviewed the plan and forwarded it to the BOS with a recommendation for approval.

On February 25, 2014, the BOS approved the contract with Chevron ES to erect ten solar arrays, install upgraded HVAC in various County buildings, and install efficient lighting and to make other energy saving improvements, at a cost of 10.5 million. Financing of the project was to come from PNC Equipment, LLC for \$9,109,446 in the form of a Master Equipment Lease-Purchase agreement. An escrow account was established with US Bank so that when an authorized agent of Sutter County requested payments to be made for the purchase of the various components of the project, funds would be released to the respective vendors of the equipment. The two authorized agents of the County were the County Administrative Officer (CAO) and Assistant CAO. In addition to the loan, Sutter County approved a budget amendment to make an upfront cash contribution not to exceed \$1.5million.

The lease agreed to between the County and PNC, consisted of 15 annual payments ranging from \$629,874 to \$1,039,834 in the final year. These payments were to be paid from the various County funds made available from the reduced energy consumed by the project improvements. The Lease-Purchase Agreement also stipulated that the disbursement of the funds in escrow would be completed within eighteen months of the signing or the funds remaining would be used to repay the loan amount.

According to representatives of the County, both the BOS and the CAO stated it was more expedient to handle the agreement by excluding the Treasurer-Tax Collector and the Auditor-Controller from the process. In fact the project came together from the initial study to the final agreement in record time according to a County representative. Instead of purchasing the various components of the project, which would have required the Auditor-Controller to be involved, according to government policy, a lease-purchase agreement was approved circumventing that policy by defining the payments as rent. At the very least, the Auditor-Controller should be included. He was elected by the people of the County to act as an independent agent to prevent the opportunity for improprieties or the appearance of such improprieties.

Since the Chevron Project was signed in February 2014, there have been significant changes from the original agreement, such as:

- The original agreement with Chevron ES was sold to OpTerra, Inc.
- Complications arose in the construction of the two major solar arrays, one located at the Sutter County Airport and the other located at the Mental Health site, preventing these units from being built. Combined, these two units were projected to produce two thirds of the power generated by the entire project.
- A new site originally designated for the airport was chosen near the town of Sutter on property purchased from the Public Works Department. This required additional money

from the General Fund to be spent for the purchase of the site. The completion date for this array is unknown at this time.

- On September 8, 2015, the BOS approved a resolution to amend the Escrow instructions to the Master Lease-Purchase Agreement due to unanticipated delays. The Resolution extends the date of completion of project work and the disbursement of escrow funds to February 27, 2017.

Also on September 8, 2015, a resolution was approved removing the CAO and the Assistant CAO from access to the escrow account and giving the Treasurer-Tax Collector sole access to that account. It further amended the agreement to reflect the Treasurer-Tax Collector and Auditor-Controller as primary authorized signers on further Requisition Requests. Both signatures are now required.

FINDINGS

- F1. The BOS signed an agreement with Chevron ES to construct energy producing and energy saving devices on and within Sutter County facilities. Financing for the project was provided by PNC Equipment Finance, LLC in the form of a Master Lease-Purchase agreement spreading the repayment over fifteen years.
- F2. The Master Lease-Purchase agreement stated that repayment would be considered to be Rent Payments under the lease. These payments would constitute an annual expense for the County.
- F3. The Rent Payments are a part of the annual budget for the respective departments of the County, instead of project funds. By defining the payments as rent, it removed it from the Auditor-Controller's jurisdiction and independent oversight.
- F4. The largest photovoltaic array is projected to produce over half of the total power produced by all ten solar units. The site for this large array was the Sutter County Airport. However, the Federal Aviation Administration (FAA) advised the County that an extensive delay would be incurred while a site study was to be conducted to determine if there were any safety issues regarding airport operations. This required an alternate site to be selected.
- F5. The second largest photovoltaic array is projected to produce 16% of the total power. Its site at Mental Health also proved to be problematic with no alternative site yet to be determined.
- F6. In the rush to complete the Chevron Project, incomplete research resulted in the selection of "problem" sites for two thirds of the total projected energy production resulting in extensive delays and added expense to the County.
- F7. The BOS approved the CAO and the Assistant CAO sole access to the \$9.1 million escrow account to disburse funds for the Chevron Project. This was later amended by giving the Treasurer-Tax Collector and Auditor-Controller sole access to the account.

RECOMMENDATIONS

- R1. Any future projects shall take advantage of all of the resources available to the BOS. The Auditor-Controller shall be included. He was elected by the people of the County to act as an independent agent to prevent the opportunity for improprieties or the appearance of such improprieties.
- R2. Any future project involving County funds shall always name the Treasurer-Tax Collector as the sole agent of the County to handle these funds. He was elected by the people to handle this responsibility and it is inconceivable that, in the original escrow agreement, he was excluded.
- R3. In the future, adequate time for thorough research shall be allowed to avoid such expensive delays, as this project has experienced, costing the County hundreds of thousands of taxpayer dollars. (See lease payment schedule Attachment A)
- R4. The BOS employ an internal auditor, by the next fiscal year, to ensure that the County is in full compliance with County Policy & Procedures.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Auditor-Controller
- Sutter County Treasurer-Tax Collector
- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County CAO

APPENDIX

Chevron Lease Payment Schedule (Attachment A)

BIBLIOGRAPHY

Creasey, Andrew. "Faulty Bookkeeping for \$9m in Sutter County." Appeal-Democrat. Appeal-Democrat. Appeal Democrat, 10 July 2015. Web. 16 Feb. 2016

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

2. LEASE PAYMENT SCHEDULE:

(a) Total Amount Financed:

\$ 9,109,446.00

(b) Payment Schedule:

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value *
1	2/27/2015	683,110.00	337,596.07	345,513.93	No Call
2	2/27/2016	629,874.00	324,791.32	305,082.68	No Call
3	2/27/2017	655,978.00	313,484.96	342,493.04	No Call
4	2/27/2018	683,267.00	300,792.17	382,474.83	7,965,897.97
5	2/27/2019	711,796.00	286,617.65	425,178.35	7,527,964.27
6	2/27/2020	772,465.00	270,860.54	501,604.46	7,011,311.67
7	2/27/2021	804,885.00	252,271.08	552,613.92	6,442,119.33
8	2/27/2022	838,774.00	231,791.21	606,982.79	5,816,927.06
9	2/27/2023	874,201.00	209,296.42	664,904.58	5,132,075.34
10	2/27/2024	911,234.00	184,655.06	726,578.94	4,383,699.03
11	2/27/2025	866,579.00	157,728.04	708,850.96	3,653,582.55
12	2/27/2026	907,050.00	131,458.03	775,591.97	2,854,722.82
13	2/27/2027	949,360.00	102,714.59	846,645.41	1,982,678.04
14	2/27/2028	993,592.00	71,337.91	922,254.09	1,032,756.33
15	2/27/2029	1,039,834.00	37,157.95	1,002,676.05	1.00

COUNTY OF SUTTER, *as Lessee*

PNC Equipment Finance, LLC, *as Lessor*

By

[REDACTED]

Name:

[REDACTED]

Title: COUNTY ADMINISTRATIVE OFFICER

By

[REDACTED]

Name:

[REDACTED]

Title:

[REDACTED]

* Assumes all Rent Payments and other amounts due on and prior to that date have been paid.

CRIMINAL JUSTICE

SUMMARY

Throughout the Sutter County Grand Jury's (SCGJ) term, members were able to tour all of the law enforcement custody facilities located in Sutter County. This included the SCGJ's responsibility to adhere to Government Code 919(b) to "...inquire into the condition and management of public prisons within the county." The SCGJ toured the Yuba-Sutter-Colusa Youth Detention Facility (YSCYD) in the Fall of 2015 and the Sutter County Jail (SCJ) in the winter of 2015.

At the time of the SCGJ's visit to the jail, staff also took the time to explain the planned SCJ expansion project. The expansion will add a new men's pod, enlarged medical unit, and a larger men's recreation area.

BACKGROUND

- **Sutter County Jail**

The (SCJ) is operated by the Sutter County Sheriff's Office (SCSO), for the last year the SCJ has had an Average Daily Population (ADP) of 312 inmates. The SCJ is capable of housing Male and Female inmates, from Minimum Security to Maximum Security. A majority of the ADP consists of inmates awaiting arraignment and trial.

- **Sutter County Jail Abuse Allegation**

The SCGJ received several complaints from an individual housed in the SCJ. The complaint alleged that while the complainant was an inmate at the SCJ, he was left in a study room for an extended amount of time and had to "kick" on a door in order to get the Attention of Corrections Staff. According to the inmate, when correctional staff did respond, he was assaulted and brutalized to the point where they broke his ankle, cut his arm (during a struggle), and had stolen his legal documents. The SCGJ took the matter seriously and immediately started its preliminary investigation into the incident.

RESOURCES

The SCGJ:

- Toured:
 - Sutter County Sheriff's Office
 - Yuba City Police Department
 - Sutter County Sheriff's Substation in Live Oak
 - Sutter County Jail
 - Yuba-Sutter-Colusa Juvenile Hall
 - Sutter County Sheriff's Office "Command Vehicle"
 - Sutter County Sheriff's Office Training Facility "Whitaker Hall"

- Interviewed:
 - Sutter County Sheriff Office-Sheriff
 - Sutter County Sheriff Office-Jail Captain
 - 4 Sutter County Jail Staff Members
 - Sutter County Sheriff's Office-Live Oak Substation
- Reviewed Documents:
 - Jail Incident Reports
 - Jail Medical Reports
 - Jail Surveillance Video
 - Video Recorded by Phone
 - Jail Inspection Handbook-Provided by the Board Of State and Community Corrections
 - Previous Grand Jury Reports

DISCUSSION

Sutter County Jail

To save money, time, and increase security, the Jail implemented video arraignments. By conducting video arraignments in a secure room at the Jail, it has removed the need to have inmates transported to the courthouse to enter their plea. This is generally a very routine job for the jail. This change has eliminated the need for a minimum of two corrections officers, a jail transport van, and security required to keep the inmate secure while at the courthouse. The results are saving the County a minimum of \$107,742 annually in labor costs alone.

The SCJ is also expanding its facilities. It will include a larger medical unit, men's recreation area and additional housing structure including additional beds.

Currently the only method of cooling for the SCJ is use of Evaporative Coolers (swamp coolers). When the temperatures reach the mid to upper 80's the evaporative cooling units no longer cool efficiently.

Some inmates housed in the SCJ are on medication which may cause the inmate to become heat intolerant. When inmates are exposed to a temperature that conflicts with this type of medication, it can cause adverse reactions. These conditions can place the inmate's health at risk. It can also make the inmate less cooperative and temperamental. This makes the Correction Officers' duties more difficult to complete.

The housing of AB109 inmates has created more plumbing maintenance issues. Inmates place a variety of items in the toilets with the intent of causing plumbing system problems. Antiquated plumbing and disposal methods require staff to physically penetrate concrete floors to address issues within the jail structure. Materials are also causing problems with the city wastewater treatment plant. This requires additional processes, equipment and services to process the sewage leaving the jail prior to delivery to the city waste collection system.

Sutter County Jail Abuse Allegation

The SCGJ requested surveillance videos, jail reports, medical reports, and interviewed key personnel from the jail.

The incident was not only recorded on the jail surveillance system, but was also recorded using a handheld "cell phone" camera. The SCGJ found the handheld "cell phone" camera evidence to be the most reliable in this situation, as it was able to show the actions between corrections staff and the inmate, up close, from beginning to end, this allowed the SCGJ to listen to the incident as well.

The inmate had requested the use of the Legal Library in order to prepare for his case. Call buttons are located inside each cell, meeting room, legal library, and study area. The inmate had pressed the button on the wall and informed the corrections staff that he needed to use a toilet. The inmate believed that the corrections staff was not responding in adequate time, and in order to attempt to get the attention of the correctional staff in the hallway, the inmate started kicking the door repeatedly. In reality the inmate gave correctional staff less than five minutes to respond from the time a staff member had checked on the inmate, the inmate pushing the button, and then beginning to kick the door.

The inmate kicked the door repeatedly with such force that it disabled the locking mechanism on the door. This made it impossible for Correctional staff to enter and requiring Sutter County Maintenance to respond to the jail in order to open the door. The room had to be closed off for 2 days due to the damage, which kept other inmates from using the library while repairs were conducted.

Upon review of evidence, the SCGJ found many of the complainant's claims to be unfounded and unreliable. The video clearly shows that the inmate had no visible cuts to his arms, SCJ surveillance showed that the inmate could be seen ascending and descending the stairs repeatedly, as well as walking, bending, and kneeling with no visible signs of pain or physical impairment immediately after correctional staff had allegedly broken his ankle.

The inmate was heard on video taunting and antagonizing the correctional staff while being escorted to his cell. While waiting for his escort to open a security corridor door he failed to follow correctional officer commands. He was then placed in a restraint hold and manually forced to comply. In this case the SCGJ finds no wrongdoing. The Correctional Staff followed procedures, exercised extreme restraint, kept calm and remained professional regardless of being repeatedly antagonized. The SCGJ finds that the inmate was returned to his cell without any signs of physical assault or injury.

Body Cameras

Both the SCSO and the YCPD are in the process of testing and evaluating body cameras for their Departments. When the cameras were introduced to the departments the overall attitude towards them was positive and deputies wanted to be equipped with them. The departments are actively testing personal body cameras, storage, and legality as well as currently testing multiple types of cameras. The SCGJ believes the departments are taking a positive step towards the acquisition

and implementation of the cameras, and believe it will improve trust between citizens and law enforcement. Likewise body cameras not only have the ability to protect the citizens but also the law enforcement officers and departments.

Sutter County Sheriff's Office Live Oak Substation

The Live Oak Substation is staffed by officers from the Sutter County Sheriff's Office. The office currently does not have a live video feed from the interview room to a viewing room, or the ability to audio record interviews. The suspect is either interviewed without recording or must be transported to the main SCJ for a recorded interview.

Currently there is an insufficient number of ballistic helmets and ballistic shields to equip all of the the deputies. Deputies are also in need of additional "less than lethal equipment." While inspecting the Live Oak Substation the SCGJ learned that the department is planning on using any available "COPS" grants in order to help upgrade their station, cars, and equipment.

Yuba Sutter Colusa County Juvenile Hall

The Yuba Sutter Colusa Juvenile Hall (YSCJH) is located in Marysville but receives offenders from multiple counties throughout the state. The YSCJH is currently suffering from a shortage of employees and is having a difficulty retaining personnel due to uncompetitive wages. With a new facility on the horizon, the SCGJ can foresee a problem with retaining the quality personnel needed to operate the state of the art facility. The pay scale is in need of a comprehensive salary and benefit survey, to reduce turnover, increase recruitment and to retain quality personnel.

At the time of the SCGJ visit to the facility, the gym walls and ceiling were in need of repair. The YSCJH had a contractor scheduled to address the issue and the repair of the facility.

FINDINGS

- F1. Evaporative Cooling System in the Sutter County Jail is inadequate.
- F2. SCGJ finds that the inmate did "vandalize" jail property needlessly.
- F3. The SCSO is actively testing personal body cameras, storage, and legality.
- F4. The Yuba City Police Department (YCPD) is currently testing multiple types of body cameras.
- F5. The YCPD is currently suffering from unfilled funded positions due to recruitment and retention issues.
- F6. SCSO Live Oak Substation lacks an audio/video monitoring system for interviews and sufficient ballistic and "less than lethal" equipment.
- F7. The Yuba-Sutter-Colusa Juvenile Hall employees' salaries are not competitive with comparable facilities resulting in a high turnover rate of employees.

- F7. The Yuba-Sutter-Colusa Juvenile Hall employees' salaries are not competitive with comparable facilities resulting in a high turnover rate of employees.

RECOMMENDATIONS

- R1. The SCSO Jail research the availability of a grant(s) and secure funding to upgrade the cooling system.
- R2. The SCSO Jail fine or add additional charges when jail property is damaged by an inmate.
- R3. Each respective department/office continue researching body cameras.
- R4. The YCPD continue their program to sponsor potential employees through the police academy who are then obligated to a specific term of employment, and continue to explore other methods to improve recruitment.
- R5. The SCSO Live Oak division use the "COPS" Grant or other funding sources to install a live streaming/recording video system in their interview room. If there is any remaining funds they should be prioritized in the order of "less than lethal" weapons for all officers, ballistic helmets for each officer, and at least one ballistic shield in an on duty vehicle at all times.
- R6. The Yuba-Sutter-Colusa Juvenile Hall conduct a comprehensive salary and benefit survey to reduce turnover and increase recruitment.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Sheriff

INVITED RESPONSES

- Yuba City Police Department Chief
- Yuba County Probation Department - Detention Services

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

AN ASSESSMENT ON SUTTER COUNTY EDUCATION

SUMMARY

The Sutter County Grand Jury (SCGJ) interviewed various school district representatives and toured schools within its responsibilities and jurisdiction. The educational facilities visited are within: the Sutter County School District, the Yuba City Unified School District (YCUSD), Winship-Robbins School District, the Live Oak Unified School District (LOUSD), and some of the other outlying districts. Each school visited provided the SCGJ with documents pertaining to various schools' facilities, programs, and responsibilities. After viewing all of the schools, the Twin Rivers Charter School stood out above all the rest due to the modern concepts used in its design and their teaching styles.

Programs provided by some schools included: after school, mentoring, music, sports, Future Farmers of America (FFA), culinary arts, horticulture, agricultural, transitional kindergarten and resources to prevent bullying (counter bullying).

RESOURCES

The SCGJ:

- Visited School District Offices:
 - Live Oak Unified
 - Yuba City Unified
- Visited Schools:
 - April Lane Elementary
 - Barry Elementary
 - Bridge Street Elementary
 - Brittan Elementary
 - Browns Elementary
 - Butte Vista
 - Encinal Elementary
 - Franklin Elementary
 - Gray Avenue Middle
 - Lincoln Elementary
 - Lincrest Elementary
 - Live Oak Alternate
 - Live Oak High
 - Live Oak Middle
 - Park Avenue Elementary
 - Robbins Elementary
 - River Valley High
 - Sutter Union High

- Robbins Elementary
- Sutter Union High
- Tierra Buena Elementary
- Twin Rivers Charter
- Valley Oak Alternative
- Winship Elementary
- Sutter County library Barber branch
- Visited:
 - Regional Occupational Program
 - Sutter County Library - Main Branch
- Interviewed:
 - Representatives of the various school districts
 - Superintendents of the various school districts
- Reviewed Documents:
 - Twin Rivers Charter School Project Details (See Attachment A)
 - Park Avenue Elementary School After School Program Summary (See Attachment B)
 - Park Avenue Elementary School “Food For Thought” (See Attachment C)
 - Kelso’s Choices Tools for Solving Small (behavioral) Problems (See Attachment D)
 - Yuba City Unified School District Organizational Chart
 - Yuba City Unified School District Strategic Plan
 - Yuba City Unified School District Governance and Communication Handbook
 - Zoning Maps of the various school districts
 - Emergency Procedures Handbook / Plan of the various school districts
 - Financials / Budgets of the various school districts

BACKGROUND

It is within the SCGJ’s scope of authority to visit and review schools within Sutter County. The County’s school districts play an important role in the delivery of quality education to its students. Therefore, the SCGJ decided to tour the campuses and review the budgets of schools within Sutter County.

DISCUSSION

The SCGJ toured the majority of school campuses within Sutter County. The SCGJ observed classrooms, cafeterias, gymnasiums, kitchens, libraries, labs, and the grounds. The SCGJ reviewed the following: building conditions, after school programs, evacuation plans, security, and emergency procedures. Additionally, the SCGJ inquired about any maintenance concerns.

The SCGJ inquired about the different programs offered to students at each school. Many of the schools visited have free after school programs. If 70% or more of the student population of an

individual school qualifies for free lunches, then a state/federal grant can be obtained to pay for the after school program.

The staff encountered at the schools toured were courteous and instrumental in assisting a thorough evaluation for the purposes of this report. Their passion for the students educational stability was apparent by their willingness to provide a positive learning environment.

Twin Rivers Charter School

Twin Rivers Charter School specifically designed their campus to be environmentally friendly. School administration performed extensive research into how students could maximize their learning.

Twin Rivers Charter School's energy efficiency, environmental comfort, and sustainable design features is the "wave of the future" for going Green. Awnings provide shade to the windows during the summer and retract during the winter to allow solar heating. Additionally, perforated solar screens shade windows to reduce solar heat gain and provide increased abundance of good daylight. The classrooms are designed with better acoustics and natural ventilation referred to as "Healthy HVAC." This system provides a softer sound by utilizing low emitting materials.

The Use of Color in the classrooms:

"Color also supports a child's developmental process." Noted education planner, Kathie Engelbrecht, maintains that being sensitive to each age group's different responses to color is key in creating an environment stimulating to their educational experience.

Dr. Heinrich Frieling of the Institute of Color Psychology studied the color preferences of 10,000 children from around the world. He found that:

- Most children 5 – 14 rejected black, white, grey, and brown
- Children 5 – 8 preferred red, orange, yellow, and violet
- Children 9 – 10 preferred red, red-orange, and green-blue
- Children 11 – 12 preferred green and yellow
- Children 13 - 14 preferred blue, ultramarine, and orange

The classrooms at Twin Rivers Charter School were painted according to the results of this study in an effort to stimulate the learning experience.

Yuba City Unified School District

The SCGJ toured a majority of the YCUSD schools. On these tours, the principal of the school visited and representatives of the YCUSD accompanied the SCGJ.

Several of the YCUSD schools have athletic tracks supplied by donation from the Sutter Welding and Equipment Company (SWECO) that is located in the community of Sutter. These athletic tracks are of great benefit to the students. Of the schools visited, the SCGJ found that

some schools had athletic tracks that were in need of immediate repair. For instance, the Park Avenue School utilizes a dirt track that is deteriorated and in need of improvement.

During the recession, the YCUSD was able to keep their extracurricular activities that other school districts in California were unable to keep. The YCUSD schools have continued to offer programs such as: drama, choir, band with strings, wind instruments, and sports, such as football, basketball, volleyball, and soccer.

Schools the SCGJ visited had implemented programs designed to counter bullying, such as Kelso's Choices (a program that gives tools to children in order to solve common problems that may arise in bullying). The schools also now have the authority to solve problems that arise from cyber bullying (bullying with personal internet devices).

The SCGJ learned that the Tierra Buena Parent Teacher Association (PTA) is able to give grants to the teachers of that school with funds that are raised through their fundraisers. Fundraisers are held throughout the year and a percentage of the funds collected go into the grant fund. Teachers who are in need of classroom supplies and for various projects may submit a request for use of these funds. The requests must meet a certain criteria.

Both Robbins Elementary School and Park Avenue Elementary School have food donation programs. The food is provided by local food banks. Additionally, Park Avenue Elementary School has informational classes for the parents to take while their children are in class. These classes provide food, cooking lessons, and nutritional information for those who may have difficulties feeding their families.

Live Oak Unified School District

The LOUSD does not receive State funds for its after school programs. However, the LOUSD is still able to provide after school programs for its students. Unlike other Sutter County schools, the Live Oak Elementary School and Middle School do not charge parents for children to attend their after school programs.

The SCGJ found that many of the schools in the LOUSD are able to offer additional extra-curricular activities that many of the surrounding districts are unable to provide its students. Live Oak High School has a Future Farmers of America (FFA) club in which students are able to raise farm animals such as: sheep, goats, chickens, and pigs, which are then sold at the Sutter County Fair. The Schools also provide archery, welding programs, wood shop, and gardening to enrich the students learning in addition to the regular curriculum.

The LOUSD provides a mentoring program for students. Older students, such as Juniors or Seniors in Live Oak High School, are able to become mentors for incoming students and help them get acclimated to the new school and encourage them along the way. Likewise, the middle school also has a mentoring program with older students who are in 7th and 8th grade mentoring the younger students.

Sutter Community Schools

The SCGJ toured Sutter Union High School and Brittan Elementary School.

Brittan Elementary School offers a state funded preschool for two half days, Kindergarten, and Transitional Kindergarten. (Transitional Kindergarten is for children who turn five on or after September, but will be turning five by or before March.) The school is unable to provide a free after school program due to the school population not meeting the poverty level required to receive a grant. However, the school is able to have an after school program for a fee.

Sutter Union High School is in a rural area. The school is able to provide career skill classes that help the students learn job trades. The students are able to use these skills immediately after graduating. During the tour of the Sutter Union High School, the SCGJ was informed of two students who were able to attain jobs right out of high school. One student who attended the school's welding program was able to get a job at an "oil rig" and is earning over \$100K per year. The other student attended computer training classes at Sutter Union High School. During a tour by the student of a TV broadcasting station, a live newscast had an error that the station employees were unable to fix. The student was able to solve the problem and was subsequently offered a job.

Both schools are in a rural area and within the jurisdiction of the Sutter County Sheriff's Department (SCSD). If a law enforcement officer is required at either school, it may take up to 20 minutes to respond. A majority of the high schools and middle schools within Sutter County have School Resource Officers which provide security, deter criminal activity, and provide a positive interaction between the students and police. Sutter Union High School and Brittan Elementary School had a School Resource Officer previously. During the economic downturn, the two schools were unable to pay for the officer. Both schools are in need of a School Resource Officer and a review of their budgets show that they are able to pay for the officer. SCSD is able to supply the officer if approved by the school districts.

During the time that Sutter Union High School and Brittan Elementary had a School Resource Officer, the crime and truancy rate was significantly lower. The School Resource Officer spent 75% of his/her time at the Sutter Unified High School and 25% of his/her time at Brittan Elementary School. A School Resource Officer at the schools can encourage students to become Sutter County Sheriff's Officer Cadets. Many cadets become police officers or Sheriff's Deputies.

FINDINGS

- F1. All aspects of the design of Twin Rivers Charter School was created to enhance the student's ability to focus on education.
- F2. Sutter Union High School and Brittan Elementary School are without a School Resource Officer.
- F3. Available grants for the various schools are applied for by principals and/or teachers.
- F4. Park Avenue Elementary School has a deteriorated dirt track.

F5. Tierra Buena Parent Teacher Association (PTA) gives grants generated by fundraising to teachers within their school.

F6. Live Oak Unified School District provides a mentoring program for its students.

RECOMMENDATIONS

R1. The hiring of a School Resource Officer for split use by Sutter Union High School District (SUHD) and Brittain Elementary School (BES). Funding for this position should be pursued by applying for grants. Any shortfall of funding should be provided by a split of 75% by SUHD and 25% by BES.

R2. The Sutter County Superintendent of Schools look into creating a position, made available to all school districts, that solely writes grants to help maximize all necessary tools for achieving modern standards for education. This position should be funded by commission on the grants received.

R3. Park Avenue Elementary School be prioritized to have the school track replaced with grant funds, donation or any other means available.

R4. The various schools provide a similar mentoring program as Live Oak Unified School District. Additionally, the various schools should encourage their PTAs to invest in providing their respective teachers grant opportunities generated by fundraising.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Sheriff (F2, R1)
- Sutter County Superintendent of Schools
- Sutter County Board of Supervisors

INVITED RESPONSES

Yuba City Unified School District Superintendent

Winship-Robbins Elementary School District Superintendent

Sutter Union School District Superintendent

Brittain Elementary School District Superintendent

APPENDIX

Twin Rivers Charter School Project Details (Attachment A)

Park Avenue Elementary School After School Program Summary (Attachment B)

Park Avenue Elementary School "Food For Thought" (Attachment C)

Kelso's Choices Tools for Solving Small Problems (Attachment D)

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

Summary of the Energy Efficient and Sustainable Design Features of the Twin Rivers Charter School.

- Abundant Natural Daylighting: Skylights
 - Daylighting a classroom via top-lighting (i.e. evenly spaced skylights) is the most effective means of daylighting, as compared to side-lighting via windows or clerestories, etc.
 - Skylights sized to provide 100% of required light levels in classrooms on most days.
 - dual-glazed prismatic acrylic domed skylights are thermally efficient and provide diffuse, even, glare-free daylighting. They maximize daylight harvesting by catching sunlight even at low angles.
 - Skylights integrate seamlessly with MR-24 standing seam roof, require no additional secondary framing or roof curbs, minimize potential for leakage, and are low maintenance.
- Operable windows for natural ventilation
- Windows sized for ventilation requirements, and visual connection to outdoors, but not for daylighting = smaller window openings. Smaller windows = more thermally efficient building envelope, less solar heat gain.
- Eave overhangs shade windows during summer, allow solar heating during winter.
- Perforated solar screens – Shade windows to reduce solar heat gain and provide increased privacy.
- Flexibility – due to use of pre-engineered metal building structure interior and exterior walls are non-structural allowing for flexibility and adaptability for future alterations or repurposing of the building.
- Design for disassembly – bolted connections (as opposed to welded), unitized exterior wall panel system, minimal interior finishes, facilitate disassembly for recycling, or up-cycling.
- Minimizing finish materials – leaving structural elements exposed to do double duty as finishes materials whenever possible, minimizes material use and construction waste, reduces and simplifies maintenance, and simplifies disassembly and recycling.
- Resilient design: designed for low-maintenance, durability, and low energy.
- Acoustics: The average sound absorption coefficient of the surface materials in the classrooms were designed to yield an RT under 0.6 seconds per ANSI standards and USGBCM LEED for Schools requirements. Sound absorbing materials used in the classrooms include perforated acoustical metal deck ceiling and Tectum wall panels.
- User comfort and indoor environmental quality: good daylighting, acoustics, natural ventilation, healthy HVAC, and low emitting materials. High performance classrooms yield higher performing students and teachers.
- HVAC: Variable Refrigerant Flow Displacement Ventilation System:
 - Variable Refrigerant Flow (VRF)
 - VRF offers comfort on demand allowing the choice to use the system only in the zones where it is needed further promoting reduced energy consumption.

- Through the use of optimized scroll or rotary compressors, specially designed heat exchangers, and inverter technology, VRF systems minimize energy consumption to levels previously unattainable by non-VRF systems.
 - Provides exceptional dehumidification and temperature control by rapidly adapting to changing loads.
 - Without using large distribution ducts, VRF systems eliminate energy losses that are unavoidable in traditional ducted systems.
 - Individual zoning ensures tenant comfort.
 - Quiet operation
- Displacement Ventilation:
 - Displacement Ventilation offers increased thermal comfort, improved indoor air quality, excellent acoustical performance, and low energy usage.
 - Works on the principal of thermal buoyancy: Cool air is introduced into the space at floor level at a very low velocity, creating a “blanket” of cool air at floor level. When the cool air encounters a heat source, such as a person or a computer station, it warms and rises up in a chimney-like effect. The warm air rises to the ceiling where it is vented to the exterior or returned and reconditioned.
 - As the cool air rises it carries with it CO2 and other contaminants results in extremely healthy indoor air quality
 - Air delivered at a higher temperature = less cooling = energy savings
 - Air delivered at low velocity = reduced fan power = energy savings
 - Air delivered at low velocity = quieter = better acoustics
 - Air delivered at low velocity = no drafts = improved occupant comfort
 - Takes advantage of natural thermal buoyancy and tall ceiling heights
 - Only conditions the occupied zone. Air supplied at floor level allows thermal stratification so energy is not wasted cooling the light fixtures.
- Daylight sensors, automatic lighting controls, fully dimmable light fixtures, and vacancy sensors minimize use of electric lighting.
 - High insulation value (R40 in roof and R25 in walls)
 - Steel structure contains a high amount of recycled steel and is 100% recyclable.
 - Steel is rot, pest and mold resistant = improved air quality, low maintenance and resilient.
 - Pre-engineered metal building components are factory built which reduces construction waste, results in less construction traffic and shorter construction times which minimizes the impacts of construction noise, dust, and run-off
 - Low flow water fixtures
 - High velocity hand dryers, save energy, conserve paper, are more hygienic, and require less maintenance.
 - Exposed concrete slab flooring: thermal mass of the slab keeps building cooler longer in the summer and warmer longer in the winter = reduced HVAC energy use. No secondary flooring finish = reduced material use, greater durability, lower maintenance.

- Standing seam roof ready for PV panel installation with “S-5” clips
- Building as the third teacher: sustainable features experienced first hand by building users. Users engaged in the sustainable operation of the building.
- Large roof area, free of mechanical equipment, optimized for PV installation.
- “Cool Roof” with high solar reflectance index (SRI) to minimize heat gain.
- Sustainable glasswool batt wall insulation, rapidly renewable bio-based, 70% less energy intensive to manufacture, no phenol, formaldehyde, or acrylics, 30% post-consumer recycled bottle glass.

The Use of Color in the classrooms

The Research

Color is a powerful communicator. It impacts us on many psychological and physiological levels. Color can enhance or impair learning, morale, and behaviors. Color helps create an unthreatening learning environment that improves visual processing, reduces stress, and challenges brain development through visual stimulation/relationships and pattern seeking.

As early as 1810, Goethe explored the psychological and soulful implications of color, and stated that how we experience an object depends on a combination of the object itself, its lighting, and our perceptions of these. The energy of color is derived from light and that energy evokes both psychological and physiological responses in the body.

The key to creating an environment conducive to learning in a classroom is to not over-stimulate learners, which is why we only color one side of the classroom. The colored wall in each classroom is strategically placed in the location that the majority of teaching will occur.

There is extensive research regarding design initiatives and their importance in the school environment. Study after study concludes that there is an explicit relationship between the physical characteristics of school buildings and educational outcomes. Four studies that evaluated the relationship between school buildings and student achievement reported higher test scores for students learning in better buildings and lower scores for students learning in substandard buildings. One of these studies showed a difference in student test scores ranging from 5 to 17 percent.

Another report (Hathaway 1995) evaluating school facilities in Milwaukee, completed by the Council of Educational Facility Planners International, found that facility condition may have a stronger effect on student performance than the combined influences of family background, socioeconomic status, school attendance, and behavior. In his article “Effects of School Lighting on Physical Development and School Performance,” clearly shows that the visual environment is one of the most important factors in learning, affecting mental attitude, class attendance, and performance.

A study by Simmons (1995) stated that color in the learning environment improves visual processing, reduces stress, and challenges brain development. Visual stimulation rewires the brain, making stronger connections while nurturing visual thinking, problem solving, and

creativity. Therefore the colors we use in a learning environment should maximize information retention and stimulate learner participation.

Color also supports a child's developmental process. Noted education planner, Kathie Engelbrecht, maintains that being sensitive to each age group's different responses to color is key in creating an environment stimulating to their educational experience.

Dr. Heinrich Frieling of the Institute of Color Psychology studied the color preferences of 10,000 children from around the world. He found that:

- Most children 5 – 14 rejected black, white, grey, and brown
- Children 5 – 8 preferred red, orange, yellow, and violet
- Children 9 – 10 preferred red, red-orange, and green-blue
- Children 11 – 12 preferred green and yellow
- Children 13 - 14 preferred blue, ultramarine, and orange

As a result of this research, we have intentionally colored in each classroom based on the age of the student.

After School Program Summary

Park Avenue Elementary School

YCUSD

Park Avenue Elementary School's "Kid's Club" afterschool program provides students with a quality program that channels their intellect and talent, builds their academic skills, and strengthens their involvement in the community. This work is made possible through a strong commitment from staff, parents, and community leaders who all take an active role in advancing our work.

The mission of Kid's Club is to build skills in students necessary to pursuing higher education and to creating a stronger community. This is achieved by providing them with activities such as STEM, Kids Science, Coast to Coast Soccer, 4-H Nutrition and Pathways. These programs provide youth with an opportunity to engage in scientific inquiry, stay healthy through fun activities, and have an opportunity for creative expression.

Program Schedule

Kindergarten program

- 1:10pm – 2:10pm kindergarten students are developing personal skills such as using the restroom, washing hands, and lining up. Due to the long day at school students are given a break time to take a nap.

Snack

- K-5 students from 2:30-3:00pm.

Homework Hour

- 3-4pm students have an hour to complete homework and if done early, they work on some spelling words, reading, and writing exercises.

Recreation & Enrichment

- 4:00-5:20pm students have an opportunity to participate in sports or clubs. Activities are grade level based.

“Food For Thought”

‘Food For Thought’ is a partnership between Yuba-Sutter Food Bank, Sutter County Public Health, and Park Avenue Elementary School of Yuba City Unified School District.

‘Food For Thought’ aims to minimize child hunger over weekends when children do not have access to the National School Lunch Program.

‘Food For Thought’ provides children at Park Avenue Elementary the opportunity to take home healthy whole grain breads and fresh local fruits and vegetables to prepare and eat on the weekend. In addition to food, families are provided educational information through Sutter County Public Health about healthy living and nutrition.

‘Food For Thought’ started in February of 2015 and continues to this day on a bi-monthly basis, during the regular school year, with the help of school and community volunteers; including but not limited to parents, YCUSD school board members, and volunteers from Yuba College and Beale Air Force Base.

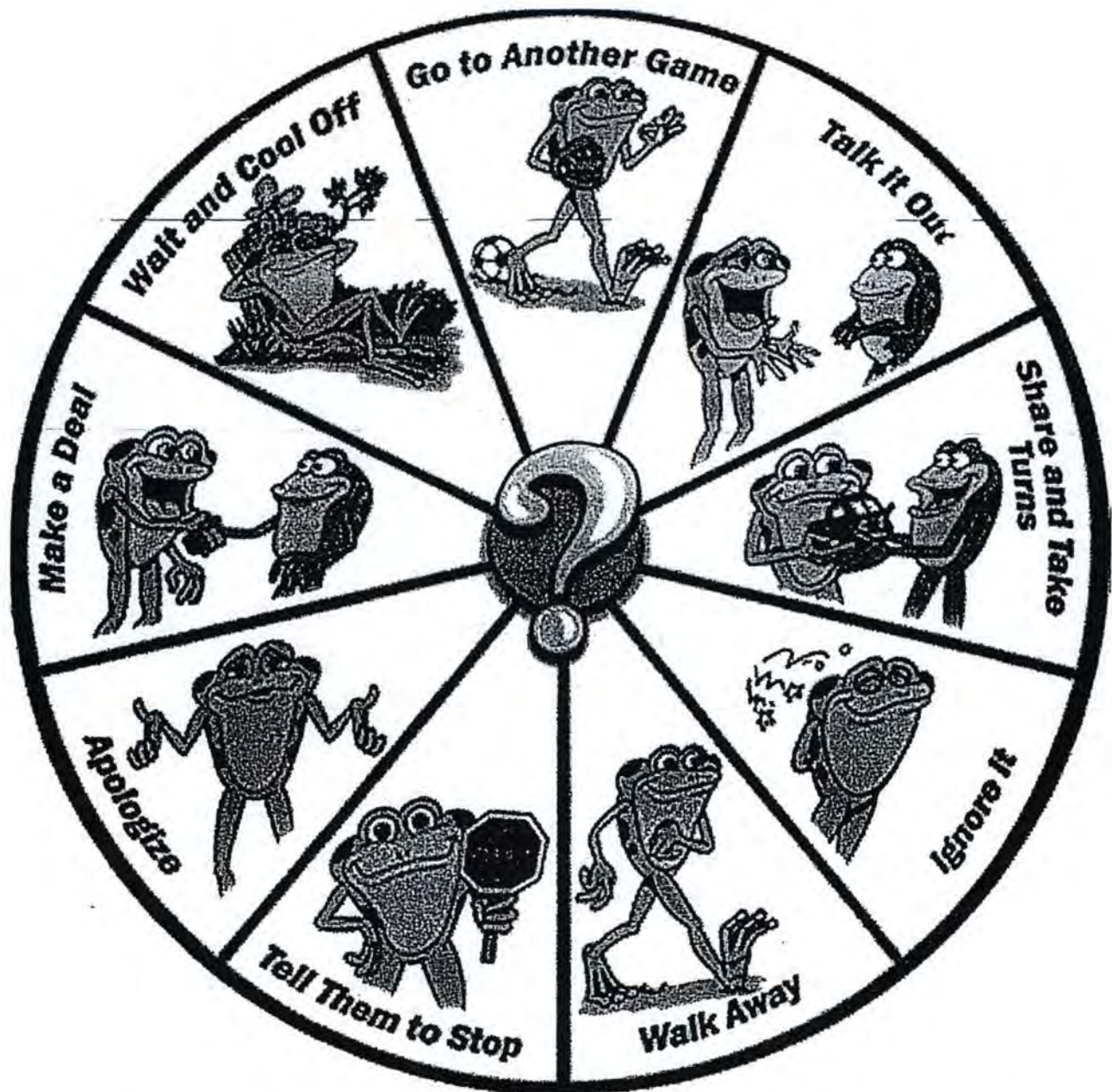
“That child who doesn’t have enough to eat isn’t going to do as well in school. And is likely to get sick more often. She’s less likely to graduate from high school and go on to college, which will have a negative impact on her economic future. If this happens, then twenty years from now, she’s much less likely to be able to earn enough to feed her family.” www.nokidhungry.org

Contact Information:

Robert Pogue, Principal
Park Avenue Elementary School
30-822-5265
Joanne Ellis
President/CEO Yuba-Sutter Food Bank
30-673-3834
Jim Sangha
NAP-Ed Sutter County Public Health
30-822-7223

Kelso's Choices

Tools for Solving Small Problems



Pick 2: Choose a strategy to help solve a small problem. If the problem is not solved then try again with a 2nd strategy.

AN OVERVIEW OF SUTTER COUNTY FIRE AND EMERGENCY

SUMMARY

Sutter County's fire stations play an important role in the delivery of fire services and medical aid for its citizens. The Sutter County fire stations toured by the Sutter County Grand Jury (SCGJ) were Oswald-Tudor Fire Station #8, Live Oak Fire Station #5, and Butte House Fire Station #7. The Yuba City Fire Departments toured were Station #1 on Clark, and Station #4 on Ohleyer Rd.

The Live Oak and the Oswald-Tudor Fire stations do not have any type of ventilation or exhaust system in the engine bays. This exposes personnel and their equipment to exhaust fumes and particulates when the engines are started and running. The byproducts of diesel engine combustion are carcinogenic as well as have detrimental health effects as documented by the Cal/EPA fact sheet (See Attachment A).

The Oswald-Tudor Fire Station buildings are insufficient in length. The south auxiliary building cannot be secured due to the length of the equipment extending past the bay doors. The north (main) building is able to be secured to house the equipment, but has inadequate space to allow access between the engines (See Attachment B).

GLOSSARY

Turnout: Personal Protection Equipment (PPE) worn by the firefighters to protect them from falling hazards and high heat.

BACKGROUND

In addition to fire suppression operations, the fire services in Sutter County provide medical aid at the basic life support level with the ability to perform emergency cardiac shock assistance. Sutter County's fire suppression consists of 8 stations managed by the County, as well as 5 stations operated by the City of Yuba City.

The Sutter County Fire Department (County Service Area - F) has a Hazardous Materials Response Team with equipment and personnel trained to mitigate releases of hazardous materials. Among the other services provided are technical rescue capabilities and education programs promoting fire safety at local elementary schools, churches, and other local public venues and events.

The Sutter County Fire Services include the following fire stations/departments:

- Live Oak Fire Station
- Sutter Fire Station
- Oswald-Tudor Fire Station
- East Nicolaus Fire Department (Staffed by volunteers)
- Pleasant Grove Fire Department (Staffed by volunteers)
- Meridian Fire Department

- Robbins Fire Department
- Yuba City Fire District (Consists of 5 stations)

It is within the SCGJ's scope of authority to visit and review the fire stations within Sutter County. The County's fire stations play an important role in the delivery of fire suppression services and medical aid for its citizens. Therefore, the SCGJ identified locations for inclusion in this year's review of Fire and Emergency services. The Oswald-Tudor Fire Station was visited as follow-up to the 2014-2015 SCGJ Report to determine if prior recommendations had been addressed.

RESOURCES

The SCGJ:

- Interviewed the following representatives:
 - Two Oswald-Tudor Fire Captains
 - Yuba City Fire Chief
 - Live Oak Fire Captain
- Toured:
 - Oswald-Tudor Fire Station #8
 - Live Oak Fire Station #5
 - Butte House Fire Station #7
 - The Yuba City Fire Departments:
 - Station #1 on Clark Ave.
 - Station #4 on Ohleyer Rd.
- Reviewed Documents:
 - The Health Effects of Diesel Exhaust by Cal/EPA
 - Plymovent informational brochure
 - AirVac informational brochure

DISCUSSION

Due to inadequate staffing levels at the Oswald-Tudor Fire Station, at times there is only one staff member on duty to respond to a call with an engine. This was witnessed by the SCGJ during a tour of the facility when a call was received. Sending a unit out with one member increases the likelihood of injury to the responding staff member. Staffing is usually augmented with volunteers. However, currently there is a lack of volunteers. Additionally, during the fire season, few volunteers are available as they are able to obtain paying seasonal employment with Cal Fire.

Oswald-Tudor Fire Station has the following equipment:

- E811-1991 Mack, built by General Fire Equipment on a 1989 chassis,

- Rescue 8-2001 Mack, built by Marion,
- E826-2007 International, built by Rosenbauer,
- E812-2003 Freightliner, built by Westates, and
- E818-2006 GMC Water Tender built by Westates.

Some of the equipment is approaching the end of its serviceable life and maintenance could become an issue.

As reported in the 2014-2015 SCGJ Report, the engine bay doors on the south auxiliary building at this station are still unable to close, due to the fire engines exceeding the size limit of the building. This leaves the fire engines as well as all equipment in this building exposed to the elements of weather, theft and vandalism. At the rear of the building there is sufficient space owned by the fire department, which has adequate room for the building to be expanded enough for the building to be properly secured with the equipment inside.

The main building is also lacking adequate space for personnel to freely move around the facility when all of the fire suppression equipment is parked inside of the building and the doors are closed. The workout and turnout equipment for the fire department's personnel is also located in the main engine bay, which is in regular contact with diesel exhaust fumes.

Furthermore, during the SCGJ's investigation, a Fire Chief informed the SCGJ that statistically the number two cause of firefighter deaths is a result of diesel exhaust exposure. The lack of an adequate ventilation system in both buildings exposes the fire agency employees to multiple health risks associated with diesel engine exhaust. Personnel and their equipment are exposed to exhaust fumes and particulates. Many studies examined by the SCGJ indicated that breathing vehicle exhaust fumes inside a firehouse can cause or contribute to serious illnesses such as emphysema, cancer, heart attack, and stroke and even death for firefighters who work-out, eat and sleep in the facility. It also requires the bays to be cleaned periodically due to particulate buildup remaining inside the building.

Similar to the Oswald-Tudor Fire Station, the Live Oak Fire Station also lacks any type of exhaust ventilation system. This creates the same health concerns as listed above at the Oswald-Tudor Fire Station.

Live Oak Fire Station has the following equipment:

- E511-1990 Spartan Type 1 Fire Engine,
 - E512-2004 Freightliner Type 1 Fire Engine,
 - E518-1996 3D Manufacturing Water Tender,
 - E526-2009 International HME type 3 Fire Engine, and
 - E516-1976 International Type 3 Fire Engine.
- (Note: this truck is scheduled to be retired after this year)

Some of the equipment is approaching the end of its serviceable life and maintenance could become an issue.

FINDINGS

- F1. Live Oak Fire Station does not have a ventilation exhaust system in the engine bays.
- F2. Oswald-Tudor Fire Station does not have a ventilation exhaust system in the engine bays of either building.
- F3. Oswald-Tudor Fire Station exercise equipment area and turnouts are in the engine bay. This exposes the personnel to residual exhaust fumes and particulates that are deposited on the equipment.
- F4. At the Oswald-Tudor Fire Station, the buildings are not large enough to safely accommodate the engines and equipment.
- F5. All Stations visited by the SCGJ reported inadequate staffing levels.

RECOMMENDATIONS

- R1. The Oswald-Tudor Fire Station and Live Oak Fire Station procure and install snorkel type ventilation systems. This would mitigate the issues of equipment exposure and minimize health risks. (F1-F3)
- R2. The Oswald-Tudor south auxiliary building be expanded to enable the equipment to be adequately and safely secured.
- R3. The Sutter County Fire Department conduct a study and review the minimum mandatory staffing requirements for all stations and take necessary action to ensure compliance with requirements.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County Fire Chief

APPENDIX

Cal/EPA Fact sheet

Photos

DISCLAIMER

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Diesel Emissions in Fire Stations

Greg Michalak

July 21, 2004

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SUMMARY

Firefighters are exposed to diesel emissions from idling fire trucks and generators inside fire stations. Diesel exhaust is a mixture of gases and microscopic solids. Gases include carbon monoxide (CO), carbon dioxide (CO₂), hydrocarbons (HC), and nitrogen oxides (NO_x), sulfide oxides (SO_x). The microscopic solids mainly consist of unburned fuel and oil in addition to other possible 18,000 substances that are attached to carbon atom and is referred to as diesel particulate matter (DPM). Diesel exhaust causes health problems including pulmonary disease and may be carcinogenic. It is mostly harmful to children, elderly, those with pulmonary and cardiovascular disease and other susceptible people. Even when vented from fire stations, diesel emissions can be circulated back into fire stations through air intakes. In addition, vented emissions can disperse up to 650 feet, creating an exposure pathway for people living near fire stations.

New emission standards for diesel vehicles are not retroactive. Some fire trucks are twenty years old and started daily and emit dangerous fumes in fire stations. Even older fire truck emissions can be reduced up to 90% using diesel exhaust filters, ultra low sulfur diesel or biodiesel. The air quality in firehouses can be increased by in-duct filters capable of removing ultra fine particles. There are no requirements to install filters or maintain DPM at certain level. EPA recommends truck retrofitting to lower emissions, and limiting chronic exposure to DPM under 0.05mg/m³ to avoid health problems. Equipment cost to reduce emissions up to 90% starts at \$5,000 and has been tested and approved by EPA. EPA can assist in selection of equipment and in funding projects.

DIESEL EXHAUST

Composition

Diesel exhaust is composed of gases and microscopic solids. The most significant gases are carbon monoxide (CO), carbon dioxide (CO₂), hydrocarbons (HC), nitrogen oxides (NO_x), and sulfide oxides (SO_x). The solid particulate matter (PM) is mainly composed of unburned fuel and oil in addition to other possible 18,000 substances.

Effects of Exposure to Diesel Exhaust

- CO upon entering the bloodstream reduces delivery of oxygen to the body's organs and tissues. Exposure to elevated CO levels can cause impairment of visual perception, manual dexterity, learning ability and performance of complex tasks.
- HC contributes to formation of ozone, which is responsible for choking, coughing, and stinging eyes associated with smog. Ozone damages lung tissue, aggravates respiratory disease and makes people more susceptible to respiratory infections. Children are especially susceptible to ozone's harmful effects, as adults with existing disease. Many hydrocarbons are also air toxins. Exposure to

air toxins is associated with cancer, birth defects and other serious health problems.

- NO_x can irritate lungs, cause bronchitis and pneumonia, and lower resistance to respiratory infections.
- SO₂ causes eye and mucous membrane irritation.
- High exposure to CO₂ can cause poisoning and death.
- PM causes breathing and respiratory problems, aggravation of existing respiratory and cardiovascular disease, damage to lung tissue, alteration in immunological system, and premature death. The most sensitive populations to PM includes children, elderly, and people with chronic pulmonary and cardiovascular disease. PM also soils and damages materials, including brick.

Dispersion Distance and Health Effect Study

The New York State Department of Health concluded that children living within 650ft of heavy truck traffic had significantly more asthma hospitalizations. The study compared the number of asthma hospitalizations to children living within 650ft of state roads that do not have truck traffic but only automobile traffic. Based on the hospitalization numbers, the study concluded that asthma hospitalizations were due to diesel emissions from truck exhaust. *Childhood Asthma Hospitalization and Residential Exposure to State Route Traffic*, Lin, full text available at <http://www.sciencedirect.com/>. Because long term exposure to diesel exhaust increases risk of pulmonary disease, it is potentially dangerous to every person residing within 650ft from fire stations. Installation of emission reducing equipment will benefit communities.

BUILDING VENTILATION AND INDOOR AIR QUALITY

Laws and Regulations

There is no federal regulation for levels of diesel exhaust or diesel particulate matter in buildings. EPA provides a Reference Concentration (RfC) recommending maximum long-term exposure to diesel particulates at 0.05mg/m³. This is not a regulation and cannot be enforced, but does provide a level that could present a hazard to individuals experiencing chronic exposure. Especially susceptible people may be affected at lower levels. According to NIOSH levels of DPM in fire stations ranges from 0.1 to 0.48 mg/m³. Fact sheet http://www.epa.gov/air/tribal/attachmts/de_factsheet_8_29_02.pdf ; full study available <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=29060>.

OSHA in 29 CFR § 1910.1000 lists "Toxic and Hazardous Substances" and maximum allowed exposure during eight hour shift. Diesel exhaust and diesel particulate matter are not on the list, although some constituents of diesel emissions are regulated. For example, particulate matter can be classified as respirable dust limit of which is 5mg/m³.

While it is unlikely that DPM in fire station to reach this level, concerned workers can request for fire stations to be tested for all listed substances to determine if they are within the norm.

OSHA proposed Indoor Air Quality regulation Federal Register Entry 59: 15968-16039 (1994, April 5) which provides:

“Other indoor air contaminants.

(i) The employer shall implement measures such as the relocation of air intakes and other pathways of building entry, where necessary, to restrict the entry of outdoor air contaminants such as vehicle exhaust fumes, into the building;”

Because states modeled their Indoor Air Quality rules on the proposed rule, OSHA’s rule has never reached approval stage. Quoted part of the rule was not adopted by states. 59 FR 15968-01.

The American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ANSI/ASHRAE) sets standards to be enforced by OSHA. Addendum 62aa to standard 62-2001 Ventilation for Acceptable Indoor Air Quality is currently in development. Addendum 62aa, Air Intake minimum separation distance imposing requirements in Table 1 is pending. A study by New York State Department of Health concluded that diesel emissions disperse 650ft. Therefore, separating building air intakes 30ft from exhaust will not prevent diesel emissions from reentering the building. <http://www.ashrae.org>

Table 1
Air Intake Minimum Separation Distance

Object	Minimum Distance, ft (m)
Significantly contaminated exhaust (Note 1)	15 (5)
Noxious or dangerous exhaust (Notes 42 and 3)	30 (10)
Vents, appliances and equipment (Note 4)	15 (5)
Garage entry, automobile loading area, or drive-in queue (Note 5)	15 (5)
Truck loading area or dock, bus parking/idling area (Note 5)	25 (7.5)

Court Opinion

In *Culbert v. City of Jersey City*, 175 N.J. 286, 291, (2003), a Judge determined a study concluding that exposure to diesel exhaust increases risk of lung obstruction was persuasive. In *Culbert* plaintiff was awarded worker’s compensation benefits ruling that occupational exposure as firefighter for thirty years materially contributed to the development of pulmonary disease. The Judge did not specifically state that diesel exhaust contributed to disability but that it could increase chances of pulmonary disease. See also: Frank Richter v.

Village of Oak Brook, Illinois workers compensation case involving a firefighter, available at arg-eroslaw.com.

Rule Limiting Level of DPM in Mines

The Mine Safety and Health Administration (MSHA) in 2001 enacted a regulation limiting DPM in mines to 0.4 mg/m³ starting July 2002 and 0.16 mg/m³ starting January 2006. 66 FR 5706-01. The reason for developing the regulation was that ...“underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers.” Levels of DPM in fire stations are similar to levels in some mines. A similar regulation could be proposed by U.S. Fire Administration to protect firefighters. To accomplish it fire fighters should contact union and other officials to lobby on their behalf for such regulation. Table 2 presents typical occupational DPM exposure levels. *NIOSH, Review of Technology Available to the Underground Mining Industry for Control of Diesel Emissions*
<http://www.cdc.gov/niosh/mining/pubs/pdfs/ic9462.pdf>

Table 2.
Typical occupational DPM exposure levels

OCCUPATIONAL GROUP	Exposure level, mg/m ³ (1 mg/m ³ = 1,000 µg/m ³)
Underground miners, coal, no aftertreatment	0.9 - 2.1
Underground miners, coal, disposable diesel exhaust filter	0.1 - 0.2
Underground miners, coal, wire mesh filter	1.2
Underground miners, metal/nonmetal, no aftertreatment	0.3 - 1.6
Surface miners	<0.2
Urban fire station	0.1 - 0.48
Forklift operators, dock workers, railroad workers	0.02 - 0.10
Truck drivers	0.004 - 0.006

Improvement of air quality by filtration in firehouses

The size of diesel particles is between 0.005µm to 1µm, amount of which can be reduced by in-duct electronic or regular air filters.

Electronic filters

Electronic filters have three components: a prefilter, a positively charged section and grounding plates.

A prefilter removes all larger particulate matter, the size of which depends on the specifications of the filter. The positively charged section acts as "collection plate" for negatively charged particles and gives a powerful positive charge to neutral particles. Positively charged particles will attach to the grounding plates. In order to control volatile organic compounds, the optional odor absorbing activated carbon filter can be installed as the fourth component. The electronic air filter will remove DPM larger than 0.01 μm .

An uninterrupted backup power supply is recommended. If the power supply fails the negative particles attached to positively charged section will be released and will contaminate ducting and building. The benefit over the regular filter is that an electronic filter does not clog and does not obstruct airflow. The clogged filter causes furnaces to run longer increasing ventilation costs. The filter requires washing and does not need to be replaced. The installation requires an electrical line and may require some modification to ducting. http://choiceaire.com/html/other_air_cleaners.html
<http://www.carrier.com/rcd/products/Literature/pdf/570-563.pdf>

Regular filters

A nanofilter developed for NASA can trap ultra-fine particle matter of a diameter of 0.05 μm . Hospitals and aircrafts are listed as potential nanofilter users. This filter has not been tested for diesel particulate matter; but its specifications indicate that it should trap some of the DPM. One Manufacturer's contact information is 203-757-5337
JL203@AOL.COM <http://usgn.com/products.htm>

TRUCK EMISSIONS

Emission Standards

U.S. EPA emission standards for trucks are listed in table 3. Although some of the equipment required for trucks manufactured after 2004 can be installed on older trucks, EPA does not require its use. <http://www.epa.gov/otaq/retrofit/overdieseltimeline.htm>
Some fire trucks in use are twenty years old. Most of these trucks have never had an emission test.

Table 3a.
Diesel emission standards

Model Year	Carbon Monoxide (CO)	Hydrocarbons (HC)	Nitrogen oxides (NO _x)	Particulate Matter (PM)
1985-1987	15.5 g/bhp-hr	1.3 g/bhp-hr	10.7 g/bhp-hr	None
1988-1989	15.5 g/bhp-hr	1.3 g/bhp-hr	10.7 g/bhp-hr	6.0 g/bhp-hr
1990	15.5 g/bhp-hr	1.3 g/bhp-hr	6.0 g/bhp-hr	6.0 g/bhp-hr
1991-1992	15.5 g/bhp-hr	1.3 g/bhp-hr	5.0 g/bhp-hr	0.25 g/bhp-hr
1993	15.5 g/bhp-hr	1.3 g/bhp-hr	5.0 g/bhp-hr	0.25 g/bhp-hr
1994-1995	15.5 g/bhp-hr	1.3 g/bhp-hr	5.0 g/bhp-hr	0.10 g/bhp-hr
1996-1997	15.5 g/bhp-hr	1.3 g/bhp-hr	5.0 g/bhp-hr	0.10 g/bhp-hr
1998-2003	15.5 g/bhp-hr	1.3 g/bhp-hr	4.0 g/bhp-hr	0.10 g/bhp-hr

g/bhp-hr (grams per brake horsepower hour)

EPA may require the following technology to achieve emission standards for 2004 – 2006.

- Exhaust Gas Recirculation (EGR) systems
- Oxidation catalysts
- Further combustion optimization
- High pressure unit injectors, injection rate-shaping
- Turbocharger, combustion chamber optimization

Table 3b

Model year	CO	NO _x + HC	PM
2004-2006	15.5 g/bhp-hr	2.5g/bhp-hr HC contribution cannot exceed 0.5 g/bhp-hr	0.10 g/bhp-hr

EPA may require the following technology to achieve emission standards for 2007.

- Catalyzed traps
- Oxidation catalysts
- NO_x adsorbers
- Selective Catalytic Reduction systems
- Use of ULSF with maximum sulfur content 15 ppm (parts per million)

Table 3c

Model year	CO	NO _x	Non-Methane Hydrocarbon (NMHC)	PM
2007	15.5 g/bhp-hr	0.20 g/bhp-hr	0.14 g/bhp-hr	0.01 g/bhp-hr

Maintenance

Proper truck maintenance is important to reduce emissions. Maintenance should include all parts of the vehicle. A NIOSH study found that trucks with leaking air brakes run a minute longer, unnecessarily emitting pollutants. *A Summary of Health Hazard Evaluations: Issues Related to Occupational Exposure to Fire Fighters, 1990 to 2001. p. 10*

Some maintenance problems can be identified from smoke colors. Blue and black smoke indicates engine problems. Blue smoke (mainly oil and unburned fuel) indicates a poorly serviced and/or tuned engine. Black smoke (soot, oil and unburned fuel) indicates a mechanical fault with the engine. White smoke (water droplets and unburned fuel) is produced when the engine is started from cold and disappears when the engine warms up. <http://www.hse.gov.uk/pubns/indg286.htm>

Retrofitting

EPA has Voluntary Diesel Retrofit Program, which provides assistance in retrofitting trucks for lowering emissions. EPA will help to choose best filtration method for the application. <http://www.epa.gov/otaq/retrofit/sitemap.htm>

Retrofitting is the installation of equipment in the exhaust line that combined with ultra low sulfur diesel (ULSD) can reduce emissions up to 90%. Use of ultra low sulfur diesel increases the effectiveness and longevity of the equipment.

The following filters can be combined for better emission reduction. According to a study by Manufacturers of Emission Controls Association (MECA) filters can reduce DPM to 0.03 g/bhp-hr and NO_x + HC to 1.5 g/bhp-hr exceeding 2004 emission standards. *Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered Heavy-Duty Engines to Achieve Low Emission Levels (MECA)*. ArvinMeritor manufacturers full line of filters including active PM filters. <http://www.arvinmeritor.com/home/default.asp> 1-800-535-5560

Active diesel particulate filter

This filter is installed in the exhaust line and can reduce PM and CO up to 90%. The filter traps soot and burns it off. An active filter, in contrast to a passive, does not require high exhaust temperature to operate. While a passive filter will not work on startup because of low temperature, active filters activate an internal burner that burns off particulate matter at startup. An active filter requires simple electrical modifications to supply power to the burner. Rypos Trap is the PM filter that works with any exhaust temperature and does not require any special diesel fuel. It removes up to 90% of PM and CO and 70% VOC with oxidation catalyst. It is installed into the exhaust pipe.

Catalytic converter

A catalytic converter uses chemical reaction to reduce NO_x by 25-50% by converting NO_x to nitrogen and oxygen. There are two types of catalytic converters: selective catalytic reduction (SCR) devices and NO_x absorbers.

Crankcase ventilation

Crankcase emissions from unburned oil and fuel can also contribute to emissions that are not routed through the tailpipe. The Donaldson Spiracle filtration system is an example of technology that can eliminate crankcase emissions from engines. A replaceable two-stage filter offers the highest level of filtration efficiency. Uncontrolled crankcase emissions can be up to 25 percent of total vehicle emissions.

<http://www.donaldson.com/en/exhaust/support/datalibrary/002421.pdf>

Diesel oxidation catalysts (DOCs)

DOC initiates a chemical reaction in the exhaust stream, oxidizing pollutants into water vapor and other gases, such as sulfur dioxide and carbon dioxide. DOC can reduce PM by up to 50%, HC by up to 90% and CO by up to 90%.

Exhaust gas recirculation (EGR)

EGR reduces NO_x by reducing the temperature at which fuel burns in the combustion chamber. Engine employing EGR recycles a portion of engine exhaust back to the engine air intake reducing the oxygen content in combustion chamber. The reduction in oxygen lowers the temperature and reduces NO_x emissions by up to 40%.

NO_x catalysts

There are two technologies that reduce NO_x emissions by up to 70%.

“Lean NO_x catalyst” injects diesel fuel into the exhaust gas to add hydrocarbons.

Hydrocarbons act as reducing agents to convert NO_x to nitrogen and water vapor in catalyst. A “NO_x Adsorber” converts NO_x and adsorbs into chemical storage within the system. The NO_x is converted to nitrogen and oxygen that is emitted from the system.

Maintenance consists of replacing or cleaning filter parts. The frequency depends on the fuel quality and the load of the vehicle. Nine out of ten trucks tested were operated for 140,000 to 180,000 miles without having filters cleaned. EPA tests different filters and posts results at <http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

NIOSH evaluations of diesel exhaust filters in fire stations

NIOSH performed air tests in two fire stations before and after installations of DPM filters. Levels of elemental carbon which makes up 80% of DPM were reduced by 76% in first station and 91% in second station. The study does not indicate if the filters were installed on trucks or on other diesel equipment. The reductions support effectiveness of DPM filters.

New York City Transit PM Filter Test

The New York City Transit Authority equipped selected buses with PM filters made by Johnson Matthey model CRT. Tests were performed involving buses not equipped with filters using regular diesel fuel and ultra low sulfur diesel (ULSD), and buses equipped with CRT filters fueled by ULSD. NO_x increased by approximately 3% which can be reduced by incorporating NO_x catalysts. The results in table 4 indicate significant reduction of diesel emissions. *Emission Results from Clean Diesel Demonstration Program with CRT Particulate Filter at New York City Transit.*

Table 4

Fuel Type	Percentage reduction from regular diesel fuel				
	CO	PM	HC	CO ₂	NO _x
ULSD	29%	29%	76%	0.15%	-3%
DPM filter + ULSD	94%	88%	92%	-4.4%	-2.5%

Fleet replacement

NIOSH tests indicate that firehouses that replaced trucks had significantly lower concentration of diesel exhaust in buildings. *A Summary of Health Hazard Evaluations: Issues Related to Occupational Exposure to Fire Fighters, 1990 to 2001. p. 9.* Although truck replacement will reduce emissions, it is very expensive and similar results can be achieved by filter installation.

OTHER TECHNOLOGY FOR EXPOSURE REDUCTION

BIODIESEL

Biodiesel may temporary but solvable maintenance issues when used in trucks previously fueled by regular diesel, due to biodiesel's solvent-like properties. Biodiesel will provide significant emission reductions for some pollutants and slight increases in others. It can be used and will provide emissions reductions in new trucks. Table 5 provides a general emissions reduction comparison of biodiesel and ultra low sulfur diesel (ULSD) (15ppm sulfur content).

Table 5

	Reduction Compared to #2 Petroleum Diesel					
	CO ₂	HC	CO	PM	NO _x	Toxics*
Biodiesel - B100	78%	70 to 93%	50%	30 to 50%	-13%	80 to 90%
Biodiesel - B20	16%	21 to 30%	11 to 20%	10 to 22%	-2%	13 to 50%
ULSD (15ppm sulfur content)	1%	13%	6%	13%	3%	N/A

ULSD w/particulate filter	N/A	up to 90%	up to 90%	80%-90%	15 to 20%	70%
ULSD w/oxidation catalyst	N/A	up to 90%	up to 90%	20 to 50%	N/A	90%

* Toxics: Reports vary in their description of toxics tested. Some refer to Toxic HCs, while others refer to polycyclic aromatic hydrocarbons (PAH) and nitrated polycyclic aromatic hydrocarbons (NPAH).

Biodiesel fuel is made from new and used vegetable oils and animal fats. It is made from domestic renewable sources and is biodegradable. It can be used as 100% biodiesel (B100) or as diesel blend. A blend of 20% biodiesel and 80% petroleum (B20) is used the most. B20 and lower blends are acceptable with the hoses and gaskets of all existing engines. B20 provides similar horsepower and torque to regular diesel, but the consumption increases by 1 to 2%. Pure biodiesel (B100) increases fuel consumption by 4.6 to 10% and can soften and degrade certain types of gasket, hose and seal compounds like natural rubber, Buna-N, and nitrile, which can create fuel system leaks. This effect has not been observed with blends of B20 and lower over the last 10 years of B20 experience, so B20 or lower blends can be used without changes.

For higher blends than B20, hoses and gaskets in some trucks can deteriorate. While natural rubber elastomers are affected, synthetic materials such as Viton compounds tend to be compatible with biodiesel. If vehicle's fueling system contains hoses, seals and gaskets made from synthetic materials it should be fine at higher blends. Most vehicles made after 1993 use synthetic materials. It is always recommended to check with the vehicle manufacturer to determine the types of hoses, gaskets and seals used on particular vehicle.

Biodiesel has a solvent effect that may release deposits accumulated on tank walls and pipes from previous diesel fuel storage. This effect is much more significant with B100 than with B20. The release of deposits may clog filters upon the initial use of B20 and should be closely monitored when switching to B20. Always ensure that only fuel meeting the biodiesel specification (D6751) is used.

Biodiesel may degrade and create sediments if in prolonged contact with brass, bronze, copper, lead, tin, and zinc. Lead solders and zinc linings should be avoided, as should copper pipes, brass regulators, and copper fittings. Affected equipment should be replaced with steel or aluminum. The effect of B20 on vulnerable materials is significantly reduced compared to higher blends.

Due to its chemical characteristics, biodiesel does freeze faster than diesel. B100 is worse in cold flow than the popular blend B20. B20 has been used in a variety of climates including winter usage in Northern Minnesota and Montana without cold flow problems. The cold flow properties of the B20 blend are mostly determined by the petroleum fraction of the blend. Most of the testing data shows a 3 to 5 degree F increase in cold flow properties of a 20% blend of biodiesel and Number 2 diesel fuel and for many users this small increase has not resulted in cold filter plugging. The cold flow properties of B20 can be enhanced by implementing the same solutions used with Number 2 diesel

fuel: blend the fuel with kerosene, use cold flow enhancing additives, turn on fuel filter or fuel line heaters, or store vehicles in a building. Neat biodiesel and biodiesel blends should not be stored for longer than 6 months. <http://www.biodiesel.org>, <http://www.epa.gov/otaq/models/analysis/biodsl/p02001.pdf>

Exhaust Removal System (No Smoke)

An exhaust removal system is installed into the exhaust pipe. It can trap the exhaust for up to 100 seconds providing enough time to enter or exit the building. The device activates when the truck is started and when it is in reverse gear. "The ceramic filters have been lasting approximately 11 months before needing to be cleaned." *Indianapolis Fire Department* This device does not reduce emissions and is not suitable for reduction of emissions from idling trucks. 800-845-4665 <http://warddiesel.com/>

Hydrogen Cell

EPA, Daimler Chrysler and UPS are testing hydrogen fueled delivery trucks in Michigan. Hydrogen fuel generates electricity that powers electric motors. It releases energy through an electro-chemical process and does not release any pollution. The vehicles powered by hydrogen cell are in testing stage. Some problems to solve include delivery of hydrogen to fueling stations and safety. Detroit Diesel, truck manufacturer, is a subsidiary of Daimler Chrysler. <http://epa.gov/otaq/fuelcell/deliveryvans.htm>

FUNDING

EPA

EPA offers funding to retrofit trucks, specific information is available at Grants Administration Division at (202) 564-5305. Grant application package can be requested at http://www.epa.gov/ogd/grants/how_to_apply.htm Grant and retrofit related questions can be addressed to Steve Albrink (202) 343-9671 albrink.steve@epa.gov and Jim Blubaugh (202) 343-9244 blubaugh.jim@epa.gov. The awarded grants are usually in exchange for testing of new products or for commitment to use environment friendly products such as ultra low sulfur diesel or biodiesel. For faster response do not use first class mail because security screening increases delivery time. Latest EPA projects are available at <http://www.epa.gov/otaq/retrofit/latestnews.htm> Current funding information is available at <http://www.epa.gov/otaq/retrofit/retrofunding.htm>

Sample of EPA Grants Awarded

Chattanooga-Hamilton County, Tennessee - \$100,000

- Grant is awarded to the Chattanooga-Hamilton County Air Pollution Control Bureau to fund a public/private partnership retrofit project involving school buses.

Chattanooga-Hamilton County and First Student, Inc., a local private school bus contractor, will equip 83 buses with diesel oxidation catalysts.

Lane Regional Air Pollution Authority, Oregon - \$100,000

- Grant is awarded to demonstrate the use of ultra low sulfur diesel (ULSD) fuel with a wide variety of nonroad equipment and heavy duty highway vehicles in the state of Oregon. The funds will help the local agencies and fleets pay for the difference in cost between regular highway fuel and cleaner ULSD.

City of Boston, Environment Department, MA – \$64,000

- Grant funds the demonstration of oxidation catalysts on up to 32 diesel touring trolleys in the City of Boston. A partnership match, in the form of a commitment to use ULSD, will be required of participating touring companies.

Hamilton County, Department of Environmental Services, OH – \$95,500

- Grant funds the demonstration of oxidation catalysts on 20 school buses in the Cincinnati Area, including low-income areas that are disproportionately effected by pollution, and a 10 month supply of biodiesel (B-20) to fuel 74 school buses.

Maryland Department of the Environment, MD – \$100,000

- Grant funds the demonstration of ULSD at the Maryland Mass Transit Administration's Eastern Maintenance Facility which services 165 diesel transit buses in the Baltimore Metropolitan region.

Mount Rainier National Park, WA – \$100,000

- Interagency agreement funds the demonstration of ULSD with the National Park's 37 diesel vehicle fleet and oxidation catalysts and/or diesel particulate filters for up to 18 of the highest use vehicles (construction equipment, plow trucks, snow blowers, snow groomer, tractor, dump trucks, refuse truck). The project will also use a 50% biodiesel/50% ULSD blend for 2 generators.

New York State, Department of Transportation, NY – \$98,600

- Grant funds the demonstration of ULSD and oxidation catalysts on 20 highway maintenance vehicles in Rockland, Westchester and Bronx counties.

Sacramento Metropolitan Air Quality Management District, CA – \$100,000

- Grant funds the demonstration of oxidation catalysts on privately-owned heavy-duty diesel trucks participating in the region's Fleet Modernization program. The

oxidation catalyst retrofits will augment the program's emission reductions from engine upgrades.

Applications for funding if not indicated otherwise should be mailed to:

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF GRANTS AND DEBARMENT
1200 PENNSYLVANIA AVENUE, NW (3903R)
ROOM 51288
WASHINGTON, D.C. 20460

COURIER HAND DELIVERY ADDRESS:

U.S. ENVIRONMENTAL PROTECTION AGENCY
1300 PENNSYLVANIA AVENUE, NW (3903R)
FIFTH FLOOR, ROOM 51288
WASHINGTON, D.C. 20004

US Department Of Homeland Security

The U.S. Fire Administration (USFA) under the patronage of U.S. Department of Homeland Security (DHS) offers Assistance to Firefighters Grant (AFG) for equipment and building modifications. Grants are available for purchase of new firefighting vehicles, used fire apparatus, or refurbished apparatus. The funds may also be used to refurbish a vehicle the department currently owns. *2004 Program Guidance for the Assistance to Firefighters Grant Program p. 19.* USFA provides additional grants for the purchase and installation of a vehicle-mounted exhaust filtration system for any vehicle purchased with grant funds. *p.21* Applicants may apply for only one vehicle per year under this program. Applicants that have been awarded vehicle grants from the AFG program in previous years are not eligible for a vehicle award in this program year. *p.18* USFA offers grants to modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel. *P. 17 (e)* USFA will not fund any other requests for modifications of fire stations than vehicle exhaust extraction systems, smoke/fire alarm systems, sprinkler systems, or emergency generators. *P. 18* The grant is limited to one per year, \$100,000 per fire station. *P.18*

The program is offered every year but the deadline passed for year 2004. There is no information about program for 2005. USFA can be contacted at 866-274-0960
<http://www.firegrantsupport.com> *2004 Program Guidance for the Assistance to Firefighters Grant Program* available at
<http://www.firegrantsupport.com/docs/2004AFGguidance.pdf>

RECOMMENDED STRATEGIES FOR REDUCTION OF EXPOSURE TO DIESEL EXHAUST

NIOSH recommendations

- Open garage doors before starting the trucks
- Minimize vehicle operation inside the station
- Keep doors to other areas closed and sealed.
- Maintain living and office areas at positive pressure with respect to the garage
- Keep a record of health symptoms and nuisance complaints
- Perform regular maintenance on furnace and air handling system and install humidifiers *A Summary of Health Hazard Evaluations: Issues Related to Occupational Exposure to Fire Fighters, 1990 to 2001. p. 7-8*

Strategy

Improvement of Indoor air and reductions of emissions

- Perform regular maintenance of trucks and diesel equipment.
- The most efficient and cost effective way to reduce emissions is to install active diesel particulate filters with oxidation catalyst in all diesel trucks and equipment used in fire station. Other filters can be installed providing they will not interfere with PM filter and oxidation catalyst. Contact NIOSH at 800-356-4674 to perform indoor air quality test before and after modifications. Manufacturers list is available at <http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.
- The exhaust should be extracted from building by tailpipe exhaust extraction system.
- Install in-duct Electronic or Nano filters to remove particulate matter entering building.
- Keeping doors to living areas closed and sealed. Maintain living and office areas at positive pressure with respect to the garage and keeping a record of health symptoms and nuisance complaints.

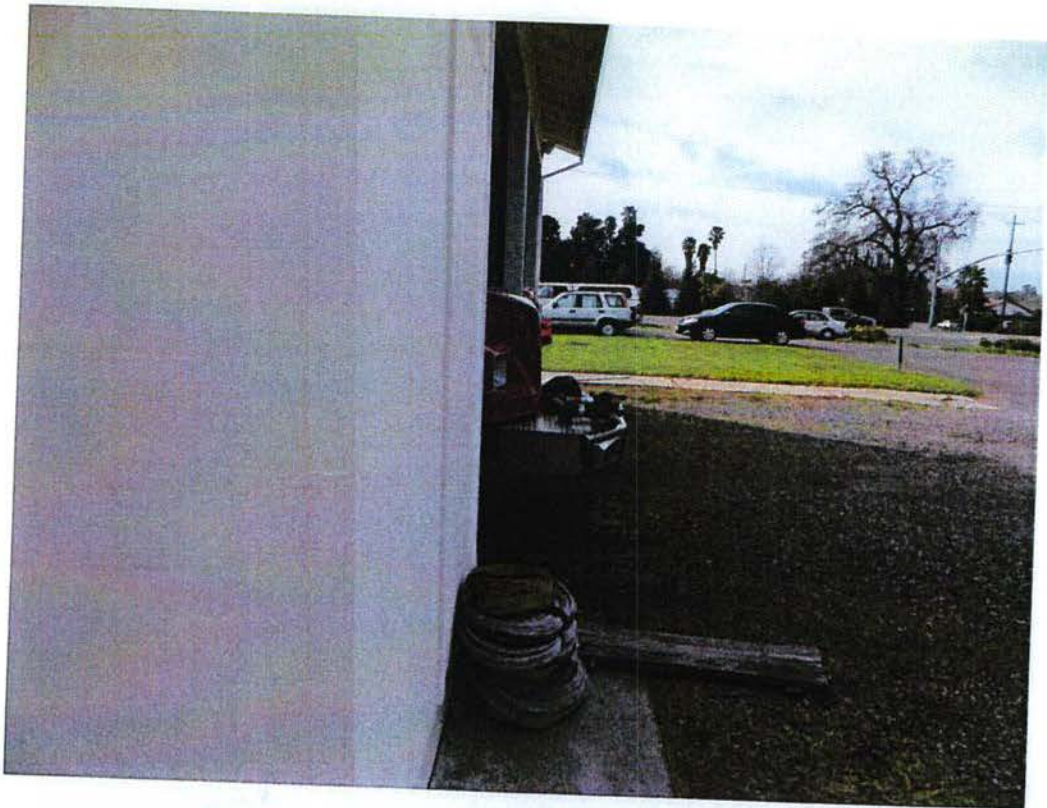
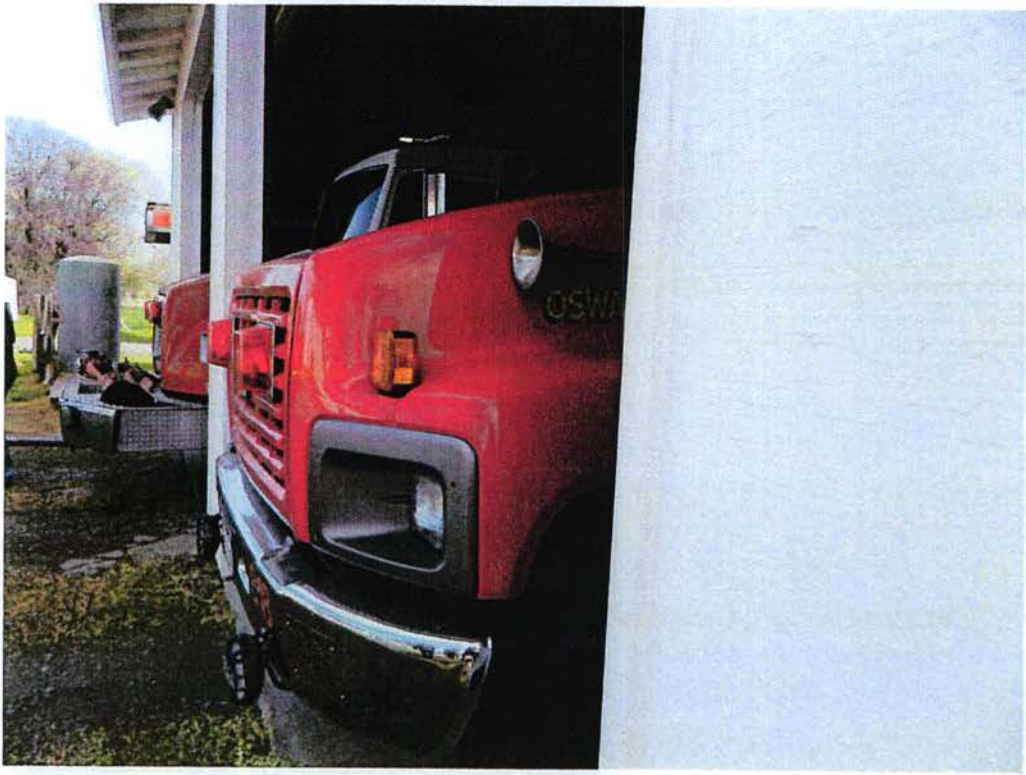
Funding

- Contact EPA at (202) 564-5305, US Fire Administration at 866-274-0960 and inquire for funding for truck exhaust retrofitting.
- Ask union officials, local business and organizations for funding.
- Distribute brochure regarding diesel effects on children in the neighborhood, and ask residents to contact alderman or local officials to provide funding.
- Contact union officials, OSHA, US Fire Administration and ask to place diesel particulate matter on OSHA's "Toxic and Hazardous Substances" list.

TABLE OF AUTHORITIES

Culbert v. City of Jersey City, 175 N.J. 286, 291, (2003)
29 CFR § 1910.1000, *Toxic and Hazardous Substances*
59 FR 15968-001, *OSHA's proposed Indoor Air Quality regulation*
66 FR 5706-01, *Exposure limits to DPM in mines (MSHA)*
ANSI/ASHRAE 62-2001 addendum 62aa
Childhood Asthma Hospitalization and Residential Exposure to State Route Traffic, Lin,
full text available at <http://www.sciencedirect.com/>
*Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered
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FACT SHEET: Release of the Health Assessment Document for Diesel Engine Exhaust,
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*Emission Results from Clean Diesel Demonstration Program with CRT Particulate Filter
at New York City Transit*
NIOSH, *Review of Technology Available to the Underground Mining Industry for
Control of Diesel Emissions* <http://www.cdc.gov/niosh/mining/pubs/pdfs/ic9462.pdf>
NIOSH, *A Summary of Health Hazard Evaluations: Issues Related to Occupational
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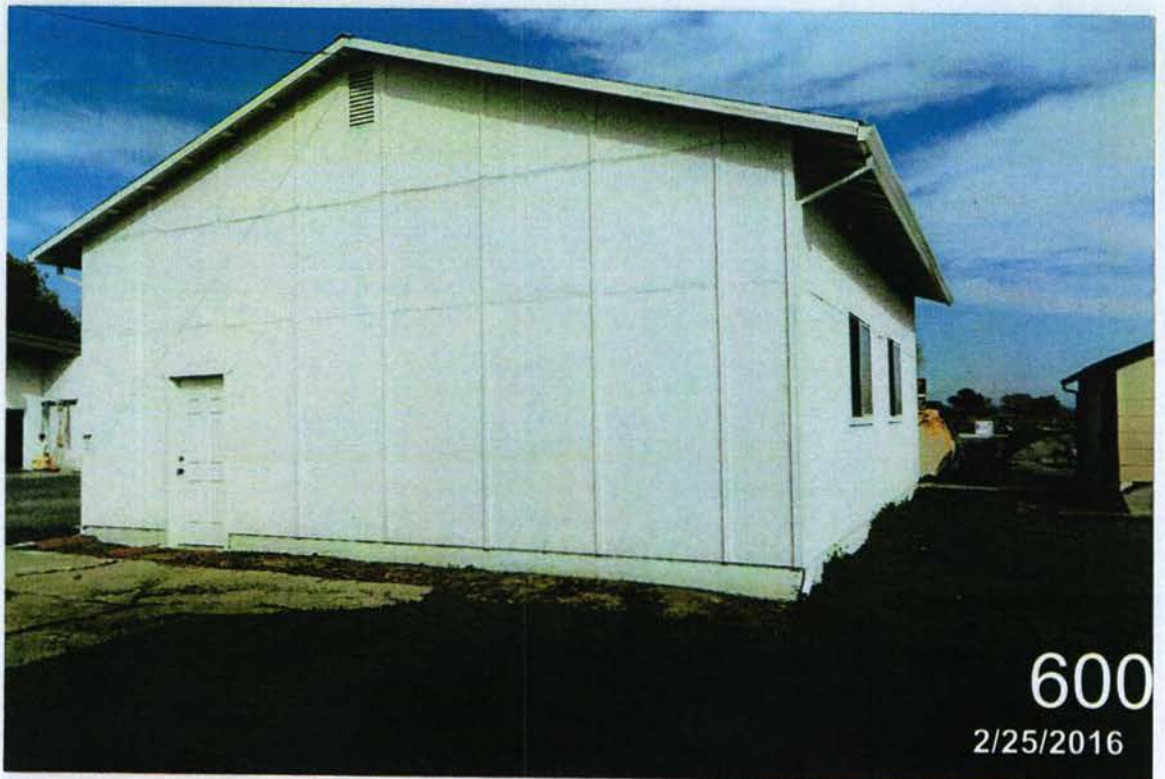
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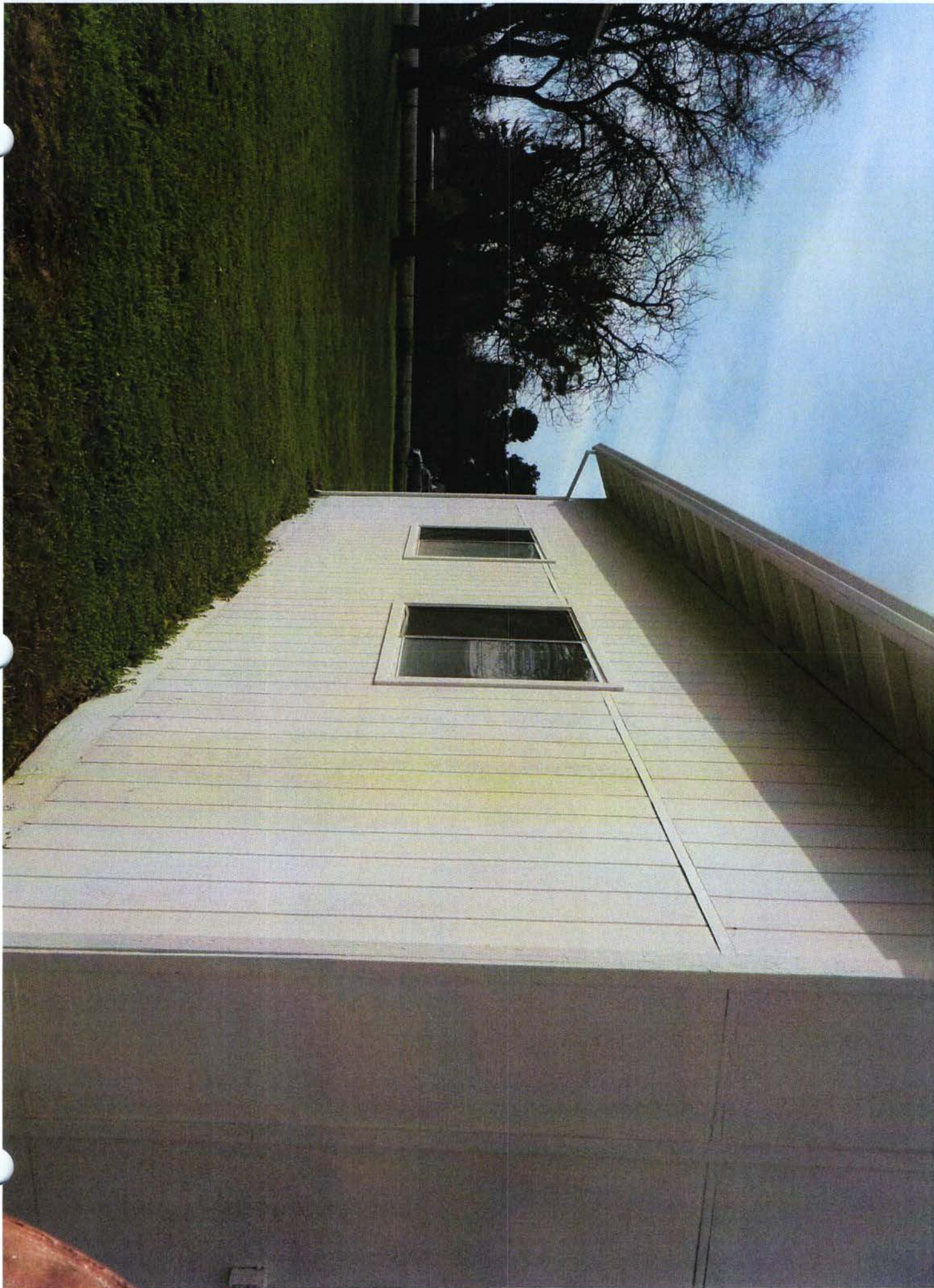
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WHO'S PROTECTING OUR CHILDREN? AN IN DEPTH LOOK INTO CHILD PROTECTIVE SERVICES

SUMMARY

The Sutter County Grand Jury (SCGJ) received numerous complaints from multiple current and previous employees as well as a foster parent of Sutter County. The complaints alleged a wide range of problems within Child Protective Services department (CPS). The SCGJ conducted a nine month investigation into CPS, which sought to determine their role within the county, including employment standards, management practices, training, building conditions, and operational standards.

GLOSSARY

Modus Operandi - A particular way or method of doing something, especially one that is characteristic or well-established.

BACKGROUND

At the beginning of the 2015-2016 grand jury term, the SCGJ received complaints from sixteen current employees and was furthermore contacted by previous employees regarding: the office being understaffed, high turnover rate; unfair workload assignments, poor management practices, lack of employee trust, communication, and support from management, unsafe and unprofessional drug testing procedures, poor building conditions and air quality, an inadequate visitation room, and no safety measures in place for employees; for instance: secure parking, security, or video surveillance. The meetings with clients are held in a meeting room adjoined to the reception area where confidential conversations can easily be overheard.

The SCGJ learned of Social Worker recommendations, which were allegedly being changed by supervisors, then sent to the court as the Social Worker's recommendation. Likewise, multiple employees notified the SCGJ that they had witnessed an incident where the Management of CPS had written a report for a Social Worker then asked the Social Worker to sign the report as if it had been written by his/herself.

Along with the employee complaints the SCGJ received a complaint from a private citizen in September of 2015. The complaint accused CPS of: blacklisting foster homes without merit, failing to follow judiciary recommendations, placing children in "at risk" situations, not following what is in the best interest of the children, and unprofessional work ethic.

While the SCGJ was investigating the CPS complaints there had been multiple news reports regarding other California CPS agencies that had failed to follow procedures, or placed children in at risk situations. One particular article by the Appeal-Democrat titled "*4 Social Workers charged after boy's beating death*" in this case two social workers and two supervisors were charged with child abuse, the supervisors were also charged with falsifying documents. This case brought light on CPS agencies and the mistakes that can be made. By the time the mistake is discovered, it is often too late and the damage has been done.

The SCGJ initiated a preliminary investigation into the allegations starting in August of 2015, after interviewing 3 CPS workers, and reviewing case information, the SCGJ found enough merit in their complaints to initiate a full investigation into the CPS Department.

RESOURCES

The SCGJ:

- Interviewed:
 - Over 90% of the current social workers from the Social Services Department - Child Protective Services Division
 - All current CPS Social Worker Supervisors
 - 4 Prior Employees
 - Program Manager of Social Services
 - Assistant Director of Human Services
 - Director of Human Services
 - (2015) County Administrative Officer
 - Assistant County Administrative Officer
 - Union Representative
 - Sheriff's Deputy

DISCUSSION

The SCGJ sought to conduct a full investigation into the allegations made about CPS by the various parties. All interviewees questioned by the SCGJ were asked the same general questions. The Social Workers provided the questioning body with multiple areas of concern. After the SCGJ gathered as much information as possible about those areas, Management was then asked for their input on those subjects.

Since 2011, the turnover rate for CPS has increased 50% and has continued to climb yearly. During interviews with employees it was found that this is also in correlation with the time that new management was hired and placed in charge of the CPS department. The SCGJ also interviewed employees who had either retired or left CPS. The SCGJ determined that the consensus of employees left because of significantly deteriorated working conditions. Many workers obtained employment in surrounding counties for lower pay and a longer commute due to the work environment being unbearable.

The SCGJ was able to narrow the complaints into the following main subjects: The Citizen Complaint, Micromanagement, Drug Testing Policy, Report Coercion, Building Conditions, and Building Security.

Due to the complexity of the complaints, as well as the agency involved, it took the SCGJ nine months to complete the investigation.

Citizen Complaint

The SCGJ was informed that there had been an active foster parent (Foster Parent) living in Sutter County who provided Foster Family Services, for both Sutter and Yuba County CPS.

The case brought to our attention involved an older child as well as his/her 3 younger siblings ranging from one to eight years old. They had been removed from their biological family because of abuse and as unsafe living conditions. The eldest child maintained that the majority of the abuse had been caused by his/her father, who according to a Sutter County Sheriff's Department (SCSD) Deputy was a verified gang member. The child recalled an instance where he was stabbed, other instances in which he was repeatedly punched in the chest, as well as numerous other abuse allegations. The abuse had started from a very young age and continued until the SCSD and CPS intervened. The child was extremely fearful and due to trust issues, it took the Social Worker several months to gain the eldest child's trust. Throughout the next two years the child, Foster Parent and Social Worker worked well together.

According to CPS management, their goal is: to not separate families, ensure the safety of children using all means available, and reunite families whenever possible. If parents comply with the orders set by the judge, there is usually a point in time in which the parents will regain custody of their children. If the parents continue making the correct choices in regards to their children's well being, CPS will terminate oversight of the family.

Ultimately, the three younger siblings were returned to the biological parents while the eldest remained in foster care. The eldest child felt that his/her siblings were still in danger, and voiced this many different times to multiple people including the Foster Family Agency and CPS. However the younger children did not complain of any abuse, which the eldest child felt they were made to say by their biological parents. The eldest child maintained that he/she did not ever want to be returned home, and eventually the Foster Parent started the adoption process.

Two years into the case, CPS management made the decision to transfer the Social Worker (Social Worker 1) off the case and Social Worker 1 was furthermore instructed not to have contact with the family. The new Social Worker (Social Worker 2) who was assigned the case had no relationship with the child or the foster family.

The Foster Parent had an "open-line" of communication with Social Worker 1 who was assigned to the case, and used email for a majority of the contact between CPS and the foster family agency. Email was the most efficient means of communication for the Foster Parent due to the fact that he/she had 5 children with busy extra curricular activities. After Social Worker 1 was replaced, the foster parent was informed by the Social Worker 2 they could no longer email CPS because it was against CPS policy to send emails to non county email addresses. Communication between the Foster Parent and the Social Worker 2 became almost nonexistent. Due to the child's trust issues, the child would refuse meetings and asked repeatedly for Social Worker 1 to be placed back on the case.

The child, foster parent, and the child's attorney were adamant about reassigning the case to Social Worker 1. The judge was also made aware of the change in social workers and requested that Social Worker 1 be placed back on the case, in the best interest of the child. The judge's

request was made on three separate occasions to the management of CPS, all of the requests were ignored.

After the problems with CPS, the Foster Parent was no longer offered any type of foster placements from Sutter County. However he/she were still receiving calls for foster children from Yuba County.

The SCGJ inquired into the process of foster placement in Sutter County and found the following. When a child is in need of foster placement, the responsible Social Worker will contact a Foster Family Agency (FFA) informing them of the child of children's demographics. The FFA provides the CPS representative with a list of viable, licensed foster homes which meet the needs of the child. Often times Social Worker will take the list to other workers or supervisors and ask if they have worked with or know anything about the proposed foster families. Workers questioned stated that there is not a "blacklist" of foster families. However, at times they will be told by supervisors not to use a specific foster home sometimes without explanation. If pressured for an answer as to why not use a particular foster home, the Social Workers received a "because I said so" response from upper management.

Citizen Complaint Conclusion

Blacklisting:

The SCGJ is unable to substantiate the existence of an official "Blacklist" or its usage. There may be some foster families that are not used due to the family not getting along with a Social Worker or CPS as an entity. However this is not against any CPS policies and ultimately it is the Social Worker or their supervisors' choice in where to place the child.

However, this modus operandi can cause a strain on an already stressed system. Children who cannot be placed in a local foster home are often sent to surrounding counties and even out of state. Causing stress on the Social Worker in added driving and travel time, and on the child who now must endure longer transportation times in order to have visitation with their family members.

If foster homes are no longer to be used, CPS should take the proper steps to de-credential the homes if they believe that children will not be taken care of in that environment.

Email Policy:

SCGJ inquired about CPS's email policy and found that according to management and Social Worker staff there is not a policy concerning sending emails outside of CPS. Social Worker's questioned stated that it is a valuable tool in communicating with Foster Parents, Foster Family agencies and other entities. As such the Social Worker or CPS should NOT have instructed the Foster Parent to stop all emails, and furthermore should have continued to respond to emails from the foster parent. Written correspondences of all types can be extremely important for communication between interested parties.

Likewise it is useful in tracking down facts, and aids in investigations in which agencies or individuals are wrongfully or rightfully accused of wrongdoing.

Best interest of the child:

With this case in particular, there were many questionable times in which it would seem that the “best interests of the children” were not the first priority for CPS. One example is the Social Worker being replaced without notice and all contact was forbidden between the parties. Placing the three youngest children back with the biological parents while the oldest remained in Foster care is another example.

The SCGJ finds that the replacement of the Social Worker further exacerbated the trust issues and caused undue anxiety upon the child. Although the Judge requested the original Social Worker be placed back on the case, it was only a recommendation and not a court order. Therefore, the cases this social worker was responsible for were ultimately the choice of CPS management.

However, the SCGJ finds that the requests of the Judge, foster parent, attorney and other entities should have been heeded in this case. When managers were questioned about why the Social Worker was replaced, inconsistent reasons were given, and none of the answers given were adequate enough to warrant the replacement of the Social Worker at the possible detriment of the child.

The other three children had been returned but one child was placed for adoption. Many CPS workers and CPS management stated it is rare and almost unheard of where CPS will retain one child in foster care and return others. Usually, if it is safe enough for one child to return to their parents, it is safe enough for all of them.

The biological parent completed their court requirements in order to have their children returned and rightfully requested for them all to be returned. CPS management believed it was doing in what was in the best interests of all parties, as well as following policy. However, the only thing that kept this child from being returned were the few advocates he had and the child's persistence in not wanting to return home and the brave ability to have their voice heard by the judge.

Overall CPS Investigation

Micromanagement

A major complaint of past and present workers of CPS has been low morale and micromanagement in the department. It has been attributed to a lack of trust in the employees from upper management. For example:

- Employees have been prohibited from working after hours in the building without some type of supervision. Whereas, previously, workers could come in and work on case reports after hours and on weekends.

- Office Assistants have had their Passpoint badges restricted. They no longer have access to areas of the building that are needed to be able to do their job efficiently. This requires a manager or Social Worker to use their Passpoint to get them through the interoffice door to complete routine tasks.
- Most long term (10+ yrs) employees reported that, under the new management, their opinions and judgement based on experience was devalued or ignored. For instance, Social Workers are no longer allowed to speak with County Counsel without first asking a supervisor for permission. However, Social Workers are the active caseworkers who write the court reports and need to be able to have an "open-line" of communication with County Counsel.

Throughout the SCGJ's investigation and interviews, many of the employees gave the same example of micromanagement, which was the CPS "letterhead", and how it is handled in the office. In order to write a letter on CPS letterhead, CPS Employees are required to submit a copy of the letter for vetting or approval by the Program Manager in order to be issued a blank letterhead. According to the Department Manager who established this policy, it was a response to one instance in which an employee misused the letterhead. Out of all the County Departments visited by the 2015-2016 SCGJ, CPS was the only instance in which management approval was required for employees to utilize department letterhead.

The current letterhead in use within the CPS Division contains the names and positions of the upper management staff as part of the letterhead. Use of this letterhead implies tacit approval of the contents of the letter.

Drug Testing Policy

Some CPS clients are required to be drug tested by court order, in order to have scheduled visits with their children. Employees reported to the SCGJ that the drug testing procedures may be: violating OSHA regulations, putting the employee at risk for communicable diseases, and possibly violating Health Insurance Portability and Accountability Act (HIPAA).

The lobby bathroom has no privacy and sits in front of the waiting area. Clients are taken into the bathroom with the social worker conducting the test. The urine is collected by the client in a cup, then handed to the Social Worker who in turn pours it into an "Integrated Multi Drug Urine Drug Test Kit". This test is able to instantly tell the Social Worker conducting the test what drugs the client has used recently. Based on the results of the instant drug test, parents are then informed whether they will or will not be visiting their child that day. The social worker then walks out of the restroom with the urine sample in hand and places it in their collection area to be further tested by a lab to verify if found positive. Some parents get extremely upset if they are told that they failed the drug test, and will at times come out of the restroom crying. Anyone who may be seated in the lobby, other CPS clients or Mental Health clients are able to observe the whole process and can easily hear anything said in the restroom eliminating any privacy that the client has.

The SCGJ cannot find this as a violation to HIPAA as their regulations do not apply to CPS for the purpose of urine collection. However the SCGJ does recognize that the current drug testing policies do not allow for the process to be confidential as it should be.

The SCGJ was informed by Human Services Management that the CPS department is in full compliance of OSHA's guidelines for bio-hazard urine collection for the purpose of drug testing.

However during the investigation multiple CPS employees who conducted the urine tests had stated that they are given the minimum in protective equipment and have been instructed to empty urine containers in the drain of the janitors closet, as well as many other questionable practices. Likewise many of the employees including ones who had been there for 10+ years complained that they had never received any training in urine collection, protection, disposal, or any other type of training on bloodborne pathogens during their time at Sutter County CPS.

The SCGJ found that CPS may be in violation of Cal Osha Rule 29 CFR 1910.1030, although it is not blood, OSHA ruled that it is considered "Other Potentially Infectious Materials" or OPIM (Attachment A). In that ruling the director of compliance stated "You correctly note that although urine is not generally considered an infectious material, any body fluid that is visibly contaminated with blood, including urine, is included within the definition of OPIM. Therefore, the reasonable anticipation of worker exposure to urine contaminated with blood would require full compliance with the standard's requirements as would any other "occupational exposure", if the center employees are required to perform the tests and/or dispose of the urine."

Although most urine likely does not contain blood there are instances where it does, and according to CPS workers they have witnessed cases where it does contain blood, such as when women are menstruating. In one specific instance a worker was exposed to blood while conducting a urine test placing them at risk for communicable diseases. Therefore, CPS should be in full compliance with Cal Osha Rule 29 CFR 1910.1030, however there are sections in which CPS is not in compliance, such as "Providing protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices" (Cal/Osha 29 CFR 1910.30).

Report Coercion

During the investigation into CPS the SCGJ was made aware of an instance where a Social Worker was given a report, which was headed to the court, and asked to sign it. This Social Worker had no part in the writing of the report and did not agree with the content of the report, as such the Social Worker refused to sign it. This situation alarmed the SCGJ, and as such the matter was investigated as well as the process that CPS normally uses to issue court reports. Social Workers were questioned about their reports and how they are normally handled by CPS.

The SCGJ found that reports are normally read over by supervisors as well as gone over as a group. Social Workers will write reports based off of the knowledge that the Social Worker has with the CPS client.

According to multiple Social Workers there are times that they will write a recommendation and upper management will return it to the worker telling them to change their recommendation.

For example, a Social Worker requested that the children in one particular case should not be returned home due to the danger the children may face if returned. Then, management forced them to change the report suggesting the children need to be returned to their guardians. This was without management meeting the clients in question and knowing only what they had read from other CPS documentation. Therefore, the presiding judge did not know anything about the original recommendation and that the Social Worker feared that the children may be in danger.

Building Conditions and Security

As reported in the 2014-2015 SCGJ report the conditions of the modulars were found to be beyond normal wear and tear. CPS employees reported that when it rained it would leak in the building to the point where desks, computers and other workstations had to be covered in plastic to keep them from becoming damaged by water. The ceiling tiles were worn and water stained and according to statements the leaseholder had come in and spray painted the ceiling tiles white in order to get rid of the staining color. Workers also complained of musty air in the workstation area, which was apparently giving some workers chest colds and in one case possibly pneumonia. At the time the SCGJ toured the facility the SCGJ was unable to substantiate the air quality claims, however the fact that a high rate of employees are getting upper respiratory infections warrants some type of air quality check. The parking lot has inadequate drainage, and puddles when it rains, the whole parking lot turns into a "lake" (Attachment C) making it almost impossible to park in the lot.

The visitation area is also an area of concern. When parents have visitation with their children the visitation room is shared with 3-4 additional families. Parents and workers complain that children are easily distracted and will go and play with other children, taking away from the bonding time, which should be spent with their parents/grandparents/etc. Social Workers stated that the toys are "disgusting" and at times a hotbed for illnesses that get passed around between the children because the toys are not cleaned after usage.

It is important to note that while the SCGJ was investigating CPS, upper management did authorize and complete a remodel of the playroom with new toys and other furniture. However there is still only one visitation room, and CPS employees stated that the toys are still not cleaned regularly.

Security

This building is also seriously lacking security. The building is lacking a security guard. There are no working security cameras on any part of the building. Additionally employees and clients park in the same parking lot, leaving no separation between clients and employees. This can place the employees at risk.

This lack in security has resulted in:

- Clients waiting until the social workers are off duty and then approaching them to talk about their case in the parking lot.
- Employees having their personal vehicles vandalized.
- The modular building was hit with a “molotov cocktail” in an attempt to light the building on fire.

Conclusion

Management also reported the appearance of low morale and lack of trust. However, management believes that it stems from a small group of four to five employees who are disgruntled. After interviewing previous employees and over 90% of current CPS social workers, management's beliefs that there are four or five disgruntled employees is far short of accurate.

Although CPS management may have valid reasons for its actions, it appears that there is an overall breakdown of communication from the Director of Human Services down through social workers.

CPS workers have a very difficult job that requires expertise, experience, and a high level of education. The workers are involved in stressful situations and receive little recognition from the public and management.

It should be noted that given the conditions of the report above, the social workers of CPS have a dedication and work ethic that displays a highest priority and concern for the children and families they come in contact with. All representatives of CPS contacted were extremely courteous and helpful. Their knowledge and cooperation were instrumental in completing a thorough investigation.

FINDINGS

- F1. There have been multiple employees who have quit or retired due to low morale and grievances that were not addressed by the CPS management.
- F2. Decision making capabilities and authority of Social Workers are limited by management.
- F3. Current drug testing procedures put employees at risk of communicable diseases, violates personal privacy rights, and displays a lack of training regarding urine collection.
- F4. The current CPS facility is lacking appropriate security measures to protect the clients, representatives of the County, and County property.
- F5. The modular units which currently house CPS have exceeded the normal life-expectancy and are badly degraded.

- F6. CPS visitation room was recently remodeled and includes new carpeting, furnishing, paint, toys and a computer for social workers use while supervising visitations.

RECOMMENDATIONS

- R1. CPS needs to encourage open communication, HR evaluation, survey of employees regarding upper management style and supervision. Should have employees rate their supervisors yearly.
- R2. Caseworkers need to have the ability to make their own recommendations. If upper management has a concern with the recommendation, then the management can write their own addendum.
- R3. CPS follow all current OSHA guidelines regarding urine collection and disposal, and policies need to be reviewed annually or consider "outsourcing" this process.
- R4. Hire a security guard and installation of video surveillance for main lobby and parking.
- R5. Relocation of the CPS department to a suitable facility.
- R6. Upgrades are recognized, however deficiencies still exist. Needs to be moved away from mental health, bathrooms and adequate space is needed for a proper visit.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County Child Protective Services Management
- Sutter County Human Services Director

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APPENDIX

Cal/Osha ruling on urine collection

Cal/Osha Regulations regarding bloodborne pathogens

Picture of Flooded Parking Lot

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person who provides information to the Grand Jury.

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Standard Number: 1910.1030

September 24, 1993

Ms. Judith A. Brown
Legal Counsel
Care Net
311 West Broad Street
Suite 500
Hills Church, Virginia 22046

Dear Ms. Brown:

Thank you for your letter of August 19 concerning the application of the Occupational Safety and Health Administration's (OSHA) final rule for Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030) to pregnancy care centers administering urine pregnancy tests.

In your letter you indicate that the pregnancy testing centers affiliated with Care Net provide on-site urine pregnancy tests. You also indicate that the procedures vary from one facility to another and may involve employees, volunteers, and clients performing various tasks associated with the urine test. As you know, OSHA's jurisdiction extends only to the safety and health of employees in the workplace and does not extend to volunteers or to the general public.

It is important to note that the bloodborne pathogens standard applies to all employees who have occupational exposure to blood or other potentially infectious materials (OPIM). The term "occupational exposure" means all **reasonably anticipated** contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. Therefore, coverage under the standard is not based on the type of industry or workplace, but rather on the reasonable anticipation of worker exposure to blood or OPIM.

Under the standard, it is the employer's responsibility to evaluate each job classification for occupational exposure, taking into account all circumstances of potential exposure to determine which, if any, employees may come into contact with blood or OPIM as part of their job duties.

Your letter indicates that you anticipate that in a certain percentage of cases employees will be exposed to urine that is contaminated with blood. You correctly state that although urine is not generally considered an infectious material, any body fluid that is visibly contaminated with blood, including urine, is included within the definition of OPIM. Therefore, the reasonable anticipation of worker exposure to urine contaminated with blood would require full compliance with the standard's requirements as would any other "occupational exposure", if the center employees are required to perform the tests and/or dispose of the urine.

We hope this information is useful to you. Thank you for your interest in occupational safety and health.

Sincerely,

Roger A. Clark
Director of Compliance Programs

August 19, 1993

OSHA/DCP/OHCA
Mr. Roger Clark
10 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Mr. Clark:

am writing on behalf of the 450 pregnancy care centers affiliated with Care Net. We would like you to clarify, in writing, the application of the OSHA regulations on bloodborne pathogens, 29 C.F.R. Part 1910.1030 (1991).

Most of our centers provide free urine pregnancy tests, which clients perform on-site. In these centers, generally the procedure is as follows: the client catches her urine in a small container then closes the lid. The client places the closed container on a tray. Usually, a volunteer, but sometimes an employee, carries the tray into a room where the client performs the test and closes the container. After the client leaves the center, the volunteer, wearing gloves, disposes of the urine in a toilet and disposes of the container and the pregnancy test in a plastic-lined trash can. The trash bag is left at the curb for regular trash pick-up. The volunteer then washes the tray, any surface where the tray was, and the bathroom with a bleach solution.

Some of our centers follow essentially the same procedure but only the client handles the urine. At other centers, volunteers perform the pregnancy test and dispose of the urine. Finally, some of our centers are medical clinics. At these clinics, staff perform the tests in a laboratory-like area of the center.

It is my understanding that although urine is not a regulated waste, any body fluid that is visibly contaminated with blood is a regulated waste. OSHA regulations do not apply to volunteers, but our centers do require some employees to perform the above-mentioned tasks. Our centers see over 200,000 clients per year. It is our best estimate that only about one in every 3000 clients catches urine that is visibly contaminated with blood. Furthermore, we have instructed our centers to ask clients to remove contaminated urine from our centers. Therefore, no contaminated urine will be disposed in our centers.

I do not believe that our employees or volunteers are at risk of exposure to bloodborne pathogens. Additionally, as I interpret the regulations, they do not apply to our centers. However, I would like you to officially confirm my interpretation.

We desire to comply with the law and, more importantly, we desire that the employees and volunteers in our centers be protected from unnecessary exposure to bloodborne pathogens. Please advise us of our status according to the regulations. If you conclude that the law requires compliance, please also advise how we can change our procedures if possible in order to change our status.

Thank you for your prompt attention to this matter. I look forward to hearing from you.

Sincerely,

Edith A. Brown
Legal Counsel

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Part Number:	1910
Part Title:	Occupational Safety and Health Standards
Subpart:	Z
Subpart Title:	Toxic and Hazardous Substances
Standard Number:	1910.1030
Title:	Bloodborne pathogens.
Appendix:	A
GPO Source:	e-CFR

10.1030(a)

Scope and Application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b) of this section.

10.1030(b)

Definitions. For purposes of this section, the following shall apply:

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health, or designated representative.

Blood means human blood, human blood components, and products made from human blood.

Bloodborne Pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Clinical Laboratory means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

Contaminated means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

Contaminated Laundry means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

Contaminated Sharps means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

Decontamination means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Director means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

Engineering Controls means controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems) that isolate or remove the bloodborne pathogens hazard from the workplace.

Exposure Incident means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

Handwashing Facilities means a facility providing an adequate supply of running potable water, soap, and single-use towels or air-drying machines.

Licensed Healthcare Professional is a person whose legally permitted scope of practice allows him or her to independently perform the activities required by paragraph (f) Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up.

HBV means hepatitis B virus.

HIV means human immunodeficiency virus.

Needleless systems means a device that does not use needles for:

(1) The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established; (2) The administration of medication or fluids; or (3) Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

Occupational Exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Other Potentially Infectious Materials means (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Parenteral means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

Personal Protective Equipment is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

Production Facility means a facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

Regulated Waste means liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

Research Laboratory means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

Sharps with engineered sharps injury protections means a nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

Source Individual means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

Sterilize means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Universal Precautions is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

Work Practice Controls means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

10.1030(c)

Exposure Control --

10.1030(c)(1)

Exposure Control Plan.

10.1030(c)(1)(i)

Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure.

10.1030(c)(1)(ii)

The Exposure Control Plan shall contain at least the following elements:

1030(c)(1)(ii)(A)

The exposure determination required by paragraph (c)(2),

10.1030(c)(1)(ii)(B)

The schedule and method of implementation for paragraphs (d) Methods of Compliance, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, (g) Communication of Hazards to Employees, and (h) Recordkeeping, of this standard, and

10.1030(c)(1)(ii)(C)

The procedure for the evaluation of circumstances surrounding exposure incidents as required by paragraph (f)(3)(i) of this standard.

10.1030(c)(1)(iii)

Each employer shall ensure that a copy of the Exposure Control Plan is accessible to employees in accordance with 29 CFR 1910.1020(e).

10.1030(c)(1)(iv)

The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure. The review and update of such plans shall also:

10.1030(c)(1)(iv)(A)

Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and

10.1030(c)(1)(iv)(B)

Document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

10.1030(c)(1)(v)

An employer, who is required to establish an Exposure Control Plan shall solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and shall document the solicitation in the Exposure Control Plan.

10.1030(c)(1)(vi)

The Exposure Control Plan shall be made available to the Assistant Secretary and the Director upon request for examination and copying.

10.1030(c)(2)

Exposure Determination.

10.1030(c)(2)(i)

Each employer who has an employee(s) with occupational exposure as defined by paragraph (b) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

10.1030(c)(2)(i)(A)

A list of all job classifications in which all employees in those job classifications have occupational exposure;

10.1030(c)(2)(i)(B)

A list of job classifications in which some employees have occupational exposure, and

10.1030(c)(2)(i)(C)

A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of paragraph (c)(2)(i)(B) of this standard.

10.1030(c)(2)(ii)

This exposure determination shall be made without regard to the use of personal protective equipment.

1030(d)

Methods of Compliance --

10.1030(d)(1)

General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

10.1030(d)(2)

Engineering and Work Practice Controls.

10.1030(d)(2)(i)

Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

10.1030(d)(2)(ii)

Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

10.1030(d)(2)(iii)

Employers shall provide handwashing facilities which are readily accessible to employees.

10.1030(d)(2)(iv)

When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

10.1030(d)(2)(v)

Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

10.1030(d)(2)(vi)

Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

1030(d)(2)(vii)

Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in paragraphs (d)(2)(vii)(A) and (d)(2)(vii)(B) below. Shearing or breaking of contaminated needles is prohibited.

10.1030(d)(2)(vii)(A)

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure.

10.1030(d)(2)(vii)(B)

Such bending, recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

10.1030(d)(2)(viii)

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

10.1030(d)(2)(viii)(A)

Puncture resistant;

10.1030(d)(2)(viii)(B)

Labeled or color-coded in accordance with this standard;

10.1030(d)(2)(viii)(C)

Leakproof on the sides and bottom; and

10.1030(d)(2)(viii)(D)

In accordance with the requirements set forth in paragraph (d)(4)(ii)(E) for reusable sharps.

10.1030(d)(2)(ix)

Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

10.1030(d)(2)(x)

Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or other potentially infectious materials are present.

10.1030(d)(2)(xi)

All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

10.1030(d)(2)(xii)

Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

10.1030(d)(2)(xiii)

Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

1030(d)(2)(xiii)(A)

The container for storage, transport, or shipping shall be labeled or color-coded according to paragraph (g)(1)(i) and closed prior to being stored, transported, or shipped. When a facility utilizes Universal Precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with paragraph (g)(1)(i) is required when such specimens/containers leave the facility.

10.1030(d)(2)(xiii)(B)

If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

1030(d)(2)(xiii)(C)

If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture-resistant in addition to the above characteristics.

10.1030(d)(2)(xiv)

Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

10.1030(d)(2)(xiv)(A)

A readily observable label in accordance with paragraph (g)(1)(i)(H) shall be attached to the equipment stating which portions remain contaminated.

10.1030(d)(2)(xiv)(B)

The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

10.1030(d)(3)

Personal Protective Equipment --

10.1030(d)(3)(i)

Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

10.1030(d)(3)(ii)

Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgement, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

10.1030(d)(3)(iii)

Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

10.1030(d)(3)(iv)

Cleaning, Laundering, and Disposal. The employer shall clean, launder, and dispose of personal protective equipment required by paragraphs (d) and (e) of this standard, at no cost to the employee.

10.1030(d)(3)(v)

Repair and Replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

10.1030(d)(3)(vi)

If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

10.1030(d)(3)(vii)

All personal protective equipment shall be removed prior to leaving the work area.

10.1030(d)(3)(viii)

When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

10.1030(d)(3)(ix)

Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures except as specified in paragraph (d)(3)(ix)(D); and when handling or touching contaminated items or surfaces.

10.1030(d)(3)(ix)(A)

Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

10.1030(d)(3)(ix)(B)

Disposable (single use) gloves shall not be washed or decontaminated for re-use.

10.1030(d)(3)(ix)(C)

Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

10.1030(d)(3)(ix)(D)

If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

10.1030(d)(3)(ix)(D)(1)

Periodically reevaluate this policy;

10.1030(d)(3)(ix)(D)(2)

Make gloves available to all employees who wish to use them for phlebotomy;

10.1030(d)(3)(ix)(D)(3)

Not discourage the use of gloves for phlebotomy; and

10.1030(d)(3)(ix)(D)(4)

Require that gloves be used for phlebotomy in the following circumstances:

10.1030(d)(3)(ix)(D)(4)(i)

When the employee has cuts, scratches, or other breaks in his or her skin;

10.1030(d)(3)(ix)(D)(4)(ii)

When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and

10.1030(d)(3)(ix)(D)(4)(iii)

When the employee is receiving training in phlebotomy.

10.1030(d)(3)(x)

Masks, Eye Protection, and Face Shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

10.1030(d)(3)(xi)

Gowns, Aprons, and Other Protective Body Clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

10.1030(d)(3)(xii)

Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

10.1030(d)(4)

Housekeeping --

10.1030(d)(4)(i)

General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

10.1030(d)(4)(ii)

All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

10.1030(d)(4)(ii)(A)

Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

10.1030(d)(4)(ii)(B)

Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

10.1030(d)(4)(ii)(C)

All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

10.1030(d)(4)(ii)(D)

Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

10.1030(d)(4)(ii)(E)

Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

10.1030(d)(4)(iii)

Regulated Waste --

10.1030(d)(4)(iii)(A)

Contaminated Sharps Discarding and Containment.

10.1030(d)(4)(iii)(A)(1)

Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

10.1030(d)(4)(iii)(A)(1)(i)

Closable;

10.1030(d)(4)(iii)(A)(1)(ii)

Leakproof resistant;

10.1030(d)(4)(iii)(A)(1)(iii)

Leakproof on sides and bottom; and

10.1030(d)(4)(iii)(A)(1)(iv)

Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard.

10.1030(d)(4)(iii)(A)(2)

During use, containers for contaminated sharps shall be:

10.1030(d)(4)(iii)(A)(2)(i)

Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

10.1030(d)(4)(iii)(A)(2)(ii)

Maintained upright throughout use; and

10.1030(d)(4)(iii)(A)(2)(iii)

Replaced routinely and not be allowed to overfill.

10.1030(d)(4)(iii)(A)(3)

When moving containers of contaminated sharps from the area of use, the containers shall be:

10.1030(d)(4)(iii)(A)(3)(i)

Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;

10.1030(d)(4)(iii)(A)(3)(ii)

Placed in a secondary container if leakage is possible. The second container shall be:

10.1030(d)(4)(iii)(A)(3)(ii)(A)

Closable;

10.1030(d)(4)(iii)(A)(3)(ii)(B)

Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and

10.1030(d)(4)(iii)(A)(3)(ii)(C)

Labeled or color-coded according to paragraph (g)(1)(i) of this standard.

10.1030(d)(4)(iii)(A)(4)

Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

10.1030(d)(4)(iii)(B)

Other Regulated Waste Containment --

10.1030(d)(4)(iii)(B)(1)

Regulated waste shall be placed in containers which are:

10.1030(d)(4)(iii)(B)(1)(i)

Closable;

10.1030(d)(4)(iii)(B)(1)(ii)

Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

10.1030(d)(4)(iii)(B)(1)(iii)

Labeled or color-coded in accordance with paragraph (g)(1)(i) this standard; and

10.1030(d)(4)(iii)(B)(1)(iv)

Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

10.1030(d)(4)(iii)(B)(2)

If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

1030(d)(4)(iii)(B)(2)(i)

Closable;

10.1030(d)(4)(iii)(B)(2)(ii)

Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

10.1030(d)(4)(iii)(B)(2)(iii)

Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard; and

10.1030(d)(4)(iii)(B)(2)(iv)

Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

10.1030(d)(4)(iii)(C)

Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, States and Territories, and political subdivisions of States and Territories.

10.1030(d)(4)(iv)

Laundry.

10.1030(d)(4)(iv)(A)

Contaminated laundry shall be handled as little as possible with a minimum of agitation.

10.1030(d)(4)(iv)(A)(1)

Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

10.1030(d)(4)(iv)(A)(2)

Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard. When a facility utilizes Universal Precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with Universal Precautions.

10.1030(d)(4)(iv)(A)(3)

Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

10.1030(d)(4)(iv)(B)

The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

10.1030(d)(4)(iv)(C)

When a facility ships contaminated laundry off-site to a second facility which does not utilize Universal Precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with paragraph (g)(1)(i).

10.1030(e)

HIV and HBV Research Laboratories and Production Facilities.

10.1030(e)(1)

This paragraph applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of the standard.

10.1030(e)(2)

Research laboratories and production facilities shall meet the following criteria:

10.1030(e)(2)(i)

Standard Microbiological Practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

10.1030(e)(2)(ii)

Special Practices.

10.1030(e)(2)(ii)(A)

Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

10.1030(e)(2)(ii)(B)

Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled or color-coded container that is closed before being removed from the work area.

10.1030(e)(2)(ii)(C)

Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

10.1030(e)(2)(ii)(D)

When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with paragraph (g)(1)(ii) of this standard.

10.1030(e)(2)(ii)(E)

All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

10.1030(e)(2)(ii)(F)

Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

10.1030(e)(2)(ii)(G)

Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

10.1030(e)(2)(ii)(H)

Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

10.1030(e)(2)(ii)(I)

Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

10.1030(e)(2)(ii)(J)

Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

10.1030(e)(2)(ii)(K)

All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

10.1030(e)(2)(ii)(L)

A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

10.1030(e)(2)(ii)(M)

A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

10.1030(e)(2)(iii)

Containment Equipment.

10.1030(e)(2)(iii)(A)

Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

10.1030(e)(2)(iii)(B)

Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

10.1030(e)(3)

HIV and HBV research laboratories shall meet the following criteria:

10.1030(e)(3)(i)

Each laboratory shall contain a facility for hand washing and an eye wash facility which is readily available within the work area.

10.1030(e)(3)(ii)

An autoclave for decontamination of regulated waste shall be available.

10.1030(e)(4)

HIV and HBV production facilities shall meet the following criteria:

10.1030(e)(4)(i)

The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

10.1030(e)(4)(ii)

The surfaces of doors, walls, floors and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

10.1030(e)(4)(iii)

Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

10.1030(e)(4)(iv)

Access doors to the work area or containment module shall be self-closing.

10.1030(e)(4)(v)

An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

10.1030(e)(4)(vi)

A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

10.1030(e)(5)

Training Requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in paragraph (g)(2)(ix).

10.1030(f)

Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up --

10.1030(f)(1)

General.

10.1030(f)(1)(i)

The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.

10.1030(f)(1)(ii)

The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

10.1030(f)(1)(ii)(A)

Made available at no cost to the employee;

10.1030(f)(1)(ii)(B)

Made available to the employee at a reasonable time and place;

10.1030(f)(1)(ii)(C)

Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and

10.1030(f)(1)(ii)(D)

Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by this paragraph (f).

10.1030(f)(1)(iii)

The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

10.1030(f)(2)

Hepatitis B Vaccination.

10.1030(f)(2)(i)

Hepatitis B vaccination shall be made available after the employee has received the training required in paragraph (g)(2)(vi)(I) and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

10.1030(f)(2)(ii)

The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

10.1030(f)(2)(iii)

If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

10.1030(f)(2)(iv)

The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in Appendix A.

10.1030(f)(2)(v)

If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with section (f)(1)(ii).

10.1030(f)(3)

Post-exposure Evaluation and Follow-up. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

10.1030(f)(3)(i)

Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

10.1030(f)(3)(ii)

Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

10.1030(f)(3)(ii)(A)

The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

10.1030(f)(3)(ii)(B)

When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

10.1030(f)(3)(ii)(C)

Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

10.1030(f)(3)(iii)

Collection and testing of blood for HBV and HIV serological status;

10.1030(f)(3)(iii)(A)

The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

10.1030(f)(3)(iii)(B)

If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

10.1030(f)(3)(iv)

Post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service;

10.1030(f)(3)(v)

Counseling; and

10.1030(f)(3)(vi)

Evaluation of reported illnesses.

10.1030(f)(4)

Information Provided to the Healthcare Professional.

10.1030(f)(4)(i)

The employer shall ensure that the healthcare professional responsible for the employee's Hepatitis B vaccination is provided a copy of this regulation.

10.1030(f)(4)(ii)

The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

10.1030(f)(4)(ii)(A)

A copy of this regulation;

10.1030(f)(4)(ii)(B)

A description of the exposed employee's duties as they relate to the exposure incident;

10.1030(f)(4)(ii)(C)

Documentation of the route(s) of exposure and circumstances under which exposure occurred;

10.1030(f)(4)(ii)(D)

Results of the source individual's blood testing, if available; and

10.1030(f)(4)(ii)(E)

All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

10.1030(f)(5)

Healthcare Professional's Written Opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation.

10.1030(f)(5)(i)

The healthcare professional's written opinion for Hepatitis B vaccination shall be limited to whether Hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

10.1030(f)(5)(ii)

The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

10.1030(f)(5)(ii)(A)

That the employee has been informed of the results of the evaluation; and

10.1030(f)(5)(ii)(B)

That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

10.1030(f)(5)(iii)

All other findings or diagnoses shall remain confidential and shall not be included in the written report.

10.1030(g)

Medical Recordkeeping. Medical records required by this standard shall be maintained in accordance with paragraph (h)(1) of this section.

10.1030(g)

Communication of Hazards to Employees --

10.1030(g)(1)

Labels and Signs --

10.1030(g)(1)(i)

Labels.

10.1030(g)(1)(i)(A)

Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in paragraph (g)(1)(i)(E), (F) and (G).

10.1030(g)(1)(i)(B)

Labels required by this section shall include the following legend:



10.1030(g)(1)(i)(C)

These labels shall be fluorescent orange or orange-red or predominantly so, with lettering and symbols in a contrasting color.

10.1030(g)(1)(i)(D)

Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

10.1030(g)(1)(i)(E)

Red bags or red containers may be substituted for labels.

10.1030(g)(1)(i)(F)

Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of paragraph (g).

10.1030(g)(1)(i)(G)

Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

10.1030(g)(1)(i)(H)

Labels required for contaminated equipment shall be in accordance with this paragraph and shall also state which portions of the equipment remain contaminated.

10.1030(g)(1)(i)(I)

Regulated waste that has been decontaminated need not be labeled or color-coded.

10.1030(g)(1)(ii)

Signs.

10.1030(g)(1)(ii)(A)

The employer shall post signs at the entrance to work areas specified in paragraph (e), HIV and HBV Research Laboratory and Production Facilities, which shall bear the following legend:



Name of the Infectious Agent)
(Special requirements for entering the area)
(Name, telephone number of the laboratory director or other responsible person.)

10.1030(g)(1)(ii)(B)

These signs shall be fluorescent orange-red or predominantly so, with lettering and symbols in a contrasting color.

10.1030(g)(2)

Information and Training.

10.1030(g)(2)(i)

The employer shall train each employee with occupational exposure in accordance with the requirements of this section. Such training must be provided at no cost to the employee and during working hours. The employer shall institute a training program and ensure employee participation in the program.

10.1030(g)(2)(ii)

Training shall be provided as follows:

10.1030(g)(2)(ii)(A)

At the time of initial assignment to tasks where occupational exposure may take place;

10.1030(g)(2)(ii)(B)

At least annually thereafter.

10.1030(g)(2)(iii)

[Reserved]

10.1030(g)(2)(iv)

Annual training for all employees shall be provided within one year of their previous training.

10.1030(g)(2)(v)

Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

10.1030(g)(2)(vi)

Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

10.1030(g)(2)(vii)

The training program shall contain at a minimum the following elements:

10.1030(g)(2)(vii)(A)

An accessible copy of the regulatory text of this standard and an explanation of its contents;

10.1030(g)(2)(vii)(B)

A general explanation of the epidemiology and symptoms of bloodborne diseases;

10.1030(g)(2)(vii)(C)

An explanation of the modes of transmission of bloodborne pathogens;

10.1030(g)(2)(vii)(D)

An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

10.1030(g)(2)(vii)(E)

An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

10.1030(g)(2)(vii)(F)

An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

10.1030(g)(2)(vii)(G)

Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

10.1030(g)(2)(vii)(H)

an explanation of the basis for selection of personal protective equipment;

10.1030(g)(2)(vii)(I)

Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

10.1030(g)(2)(vii)(J)

Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

10.1030(g)(2)(vii)(K)

An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;

10.1030(g)(2)(vii)(L)

Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

10.1030(g)(2)(vii)(M)

An explanation of the signs and labels and/or color coding required by paragraph (g)(1); and

10.1030(g)(2)(vii)(N)

An opportunity for interactive questions and answers with the person conducting the training session.

10.1030(g)(2)(viii)

The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

10.1030(g)(2)(ix)

Additional Initial Training for Employees in HIV and HBV Laboratories and Production Facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements.

10.1030(g)(2)(ix)(A)

The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

10.1030(g)(2)(ix)(B)

The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

10.1030(g)(2)(ix)(C)

The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

10.1030(h)

Recordkeeping --

10.1030(h)(1)

Medical Records.

10.1030(h)(1)(i)

The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with 29 CFR 1910.1020.

910.1030(h)(1)(ii)

This record shall include:

910.1030(h)(1)(ii)(A)

he name and social security number of the employee;

910.1030(h)(1)(ii)(B)

A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by paragraph (f)(2);

910.1030(h)(1)(ii)(C)

A copy of all results of examinations, medical testing, and follow-up procedures as required by paragraph (f)(3);

910.1030(h)(1)(ii)(D)

The employer's copy of the healthcare professional's written opinion as required by paragraph (f)(5); and

910.1030(h)(1)(ii)(E)

A copy of the information provided to the healthcare professional as required by paragraphs (f)(4)(ii)(B)(C) and (D).

910.1030(h)(1)(iii)

Confidentiality. The employer shall ensure that employee medical records required by paragraph (h)(1) are:

910.1030(h)(1)(iii)(A)

Kept confidential; and

910.1030(h)(1)(iii)(B)

not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

910.1030(h)(1)(iv)

The employer shall maintain the records required by paragraph (h) for at least the duration of employment plus 30 years in accordance with 29 CFR 1910.1020.

910.1030(h)(2)

Training Records.

910.1030(h)(2)(i)

Training records shall include the following information:

910.1030(h)(2)(i)(A)

The dates of the training sessions;

910.1030(h)(2)(i)(B)

The contents or a summary of the training sessions;

910.1030(h)(2)(i)(C)

The names and qualifications of persons conducting the training; and

910.1030(h)(2)(i)(D)

he names and job titles of all persons attending the training sessions.

910.1030(h)(2)(ii)

Training records shall be maintained for 3 years from the date on which the training occurred.

10.1030(h)(3)

Availability.

10.1030(h)(3)(i)

The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

10.1030(h)(3)(ii)

Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the Director, and to the Assistant Secretary.

10.1030(h)(3)(iii)

Employee medical records required by this paragraph shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the Director, and to the Assistant Secretary in accordance with 29 CFR 1910.1020.

10.1030(h)(4)

Transfer of Records. The employer shall comply with the requirements involving transfer of records set forth in 29 CFR 1910.1020(h).

10.1030(h)(5)

Sharps injury log.

10.1030(h)(5)(i)

The employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in such manner as to protect the confidentiality of the injured employee. The sharps injury log shall contain, at a minimum:

10.1030(h)(5)(i)(A)

The type and brand of device involved in the incident,

10.1030(h)(5)(i)(B)

The department or work area where the exposure incident occurred, and

10.1030(h)(5)(i)(C)

An explanation of how the incident occurred.

10.1030(h)(5)(ii)

The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under 29 CFR part 1904.

10.1030(h)(5)(iii)

The sharps injury log shall be maintained for the period required by 29 CFR 1904.33.

10.1030(i)

Dates —

10.1030(i)(1)

Effective Date. The standard shall become effective on March 6, 1992.

10.1030(i)(2)

The Exposure Control Plan required by paragraph (c) of this section shall be completed on or before May 5, 1992.

10.1030(i)(3)

Paragraphs (g)(2) Information and Training and (h) Recordkeeping of this section shall take effect on or before June 4, 1992.

Paragraphs (d)(2) Engineering and Work Practice Controls, (d)(3) Personal Protective Equipment, (d)(4) Housekeeping, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, and (g)(1) Labels and Signs of this section, shall take effect July 6, 1992.

FR 64004, Dec. 06, 1991, as amended at 57 FR 12717, April 13, 1992; 57 FR 29206, July 1, 1992; 61 FR 5507, Feb. 13, 1996; 66 FR 5325 Jan., 18, 2001; 67 FR 16672 and 16673, April 3, 2006; 73 FR 75586, Dec. 12, 2008; 76 FR 33608, June 8, 2011; 76 FR 80740, Dec. 27, 2011; 77 FR 19934, April 3, 2012]

› Next Standard (1910.1030 App A)

› Regulations (Standards - 29 CFR) - Table of Contents

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DEPARTMENT OF LABOR

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Occupational Safety & Health Administration
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Washington, DC 20210
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ENDORSED FILED

MAY 27 2016

Report
of the
2015-2016
Sutter County Grand Jury

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

Steven Meyer-Foreperson, Addam Heltsley, Andrew Sampeck, Annette Roach,
Carrie Mitchell, Christy Cook-Pratt, Gail Stillwell, Gerald Marta, Jacqueline McLaughlin,
John Forberg, Kristen Hart, Marianne Ethington, Pablo Fischetti, Perry Pasquale,
Richard Libby, Richard Snyder, Teresa Smith, William Carter

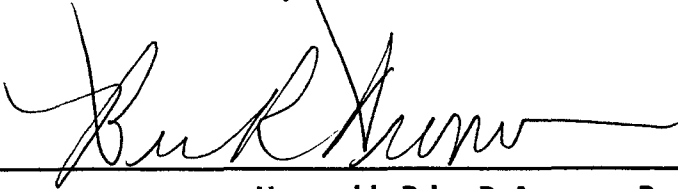
Final Report [pursuant to Penal Code 933(a) on subject:
Pension Enhancements: A Case of Government Code Violations and
a Lack of Transparency



Steven Meyer
2015-2016 Foreperson

May 18, 2016
Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code
("Powers and Duties of the Grand Jury").



Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County

May 20, 2016
Date

PENSION ENHANCEMENTS: A CASE OF GOVERNMENT CODE VIOLATIONS AND A LACK OF TRANSPARENCY

SUMMARY

Unfunded pension liabilities are a concern for county and city governments throughout California. The Sutter County Grand Jury (SCGJ) elected to review the health of Sutter County's pension plan, its impact on the budget, and the process by which the plan was adopted.

The SCGJ found that the Board of Supervisors (BOS) approved a retirement plan on August 31, 2004 that enhanced the formula for employee retirements for all County employees. The new plan was made retroactive to the date of hire. The BOS approved the new plan on the Consent Calendar that is normally used for non-controversial items. This method of approval deprived the public the full opportunity for review and discussion. Additionally, there were no adequate actuarial studies completed to determine the full impact on the County's fiscal health. The SCGJ finds these actions to be in violation of the California Government Code (GC).

The result of the enhanced retirement plan has taken the County from having a surplus of \$28,797,894 in the retirement fund in 2001 to an unfunded liability of \$110,802,083 in 2014. It is difficult to determine the full impact of carrying such an obligation forward. However, the present impact to the County is a risk to the financial health of the County's future.

It is the recommendation of the SCGJ for the BOS to develop, adopt and implement policy and procedures to prevent future violations of the GC. The SCGJ recommends it is in the best interest of the County to employ an internal auditor to ensure that the County is in full compliance with Federal & State law and County Policy & Procedures.

GLOSSARY

Actuary : A statistician who computes insurance risks and premiums.

Actuarial : 1 - relating to statistical calculation. 2 - of or relating to actuaries.

Obfuscation : To make (something) more difficult to understand.

Consent Calendar (Excerpt from Sutter County Agenda Summary - Attachment A):

"The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately."

BACKGROUND

In July of 2015, the SCGJ received a letter from a member of the 2004-2005 Marin County Grand Jury regarding the pension enhancements of four agencies in their county. Their

investigation uncovered a pattern of abuse where the public was eliminated from the process through obfuscation, violations of the Government Code and disregard of the rights of the citizens of Marin County. The result of these pension enhancements increased the unfunded liability of Marin County taking that county from having a surplus of several million dollars in year 2000 to massive debt by year 2013. The SCGJ decided to investigate Sutter County's pension plan, which was approved in 2004, and determine what impact it has had on the County's financial health.

RESOURCES

The SCGJ:

- Interviewed:
 - Sutter County Auditor-Controller
 - Representatives of the County
- Reviewed Documents:
 - Agendas & minutes of the Sutter County Board of Supervisors' (BOS) meetings
 - Actuarial results of the County's pension plan
 - Sutter County Budget
 - Sections of the California Government Code

DISCUSSION

The SCGJ reviewed California GC Sections 7507, 23026, 31515.5 and 31516. These statutes impose specific obligations on the County when they consider pension increases. The purpose of these statutes is to ensure timely public disclosure, allow for a public discussion at board meetings, and to require a reasoned decision-making process based on actuarial input.

GC Section 7507 requires that counties *"secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in public retirement plan benefits. The future annual costs as determined by the actuary shall be made public at a regularly scheduled meeting at least two weeks prior to the adoption of any increases in public retirement plan benefits."*

Similar to GC Section 7507, GC Section 31516 requires that the board of supervisors:

- *"shall hire an "actuary to provide a statement of the actuarial impact upon future annual costs before authorizing benefits."* [Emphasis Added]
- It also provides that the actuary's report *"shall be made public at a public meeting at least two weeks prior to the adoption of any increases in benefits."* [Emphasis Added]

GC Section 23026 contains four separate requirements that the board of supervisors of any local pension system must fulfill before enhancing pension benefits. It states that the board of supervisors:

- ***“shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and non-represented employees;”*** [Emphasis Added]
- ***“shall include notice of any salary or benefit increase... on the agenda for the meeting as an item of business;”*** [Emphasis Added]
- ***“shall provide that notice “prior to the adoption of the salary or benefit increase;”*** [Emphasis Added]
- ***“shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees’ retirement system.”*** [Emphasis Added]

Similar to GC Section 23026, GC Section 31515.5 (2001) requires the board of supervisors to notice, at a regularly scheduled meeting, all salary and benefit increases. It authorizes the preparation of an actuarial estimate on the impact of the salary and benefit requirements. Specifically, the mandatory language provides that the board of supervisors:

- ***“shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and non-represented employees;”*** [Emphasis Added]
- ***“shall include a notice of any salary or benefit increase on the agenda for the meeting as an item of business;”*** [Emphasis Added]
- ***“shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees’ retirement system.”*** [Emphasis Added]

Government Code provisions require a public airing of proposed pension increases for public employees and the actual costs of those increases. The SCGJ found that the BOS failed to comply with these sections of Government Code and approved enhanced retirement benefits which added millions of dollars of unfunded liability to the Sutter County taxpayers.

Evidence reviewed by the SCGJ shows that in 2004, the BOS failed to comply with Government Code 7507, 23026, 31515.5, and 31516 in the following manner:

- The BOS failed to provide disclosure of the true cost of the enhanced retirement package at a scheduled meeting two weeks prior to its approval.
- The BOS placed the controversial enhanced retirement on the Consent Calendar instead of as an “item of business.”
- The BOS failed to clearly describe the enhanced retirement items by placing them on the Consent Calendar in the following format (Excerpt from Attachment A):

- o *"7) Approval of Memoranda of Understanding for the General (A04-173), Professional (A04-174), and Supervisory Units (A04-175); Addenda to Memoranda of Understanding for the Fire Safety (A04-176) and Law Enforcement (A04-177) Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees (A04-178)"*

This obscure language, without adequate supporting material, did not allow for full transparency and very possibly curtailed or discouraged full public participation. One significant issue, in the supporting material, included an enhanced retirement formula that enriched the employees' retirement from date of hire instead of the date the agreements were approved. This single issue had a profound impact on the financial health of the County as well as an added burden to the taxpayers. (See Attachment B)

The BOS refused to remove the "item" regarding the enhanced retirement from the Consent Calendar as requested by the Sutter County Auditor-Controller. The Auditor-Controller is an independently elected officer of the County. Their primary duty is to provide fiscal and management services to and on behalf of the people of Sutter County. By refusing to honor this request, the BOS unilaterally prohibited an independently elected officer of the County from performing their primary function, which is to fiscally protect the public.

FINDINGS

- F1. The BOS violated GC Section 31516 by failing to secure an actuarial statement that explained the financial impact of the pension increase and present it to the public at least two weeks prior to its approval.
- F2. The BOS violated GC Section 23026 by placing the item which enhanced pension benefits on the Consent Calendar instead of "as an item of business."
- F3. The BOS refused to remove this highly controversial issue from the Consent Calendar when requested to do so by the Sutter County Auditor-Controller.
- F4. The BOS removed a safeguard that was designed to fiscally protect the citizens of Sutter County by refusing the Sutter County Auditor-Controller's request to bring the enhanced benefits package forward for public review and further study.

RECOMMENDATIONS

- R1. The BOS develop, adopt and implement policy and procedures, including staff training, to prevent future violations of the California Government Code.
- R2. The BOS designate that the Auditor-Controller develop written quarterly reports for the public to view as to the financial security of the County's pension fund.
- R3. The BOS employ an internal auditor, by the next fiscal year, to ensure that the County is in full compliance with Federal & State law and County Policy & Procedures.

- R4. The BOS adopt a policy where transparency in the County's legislative process should take precedence over expediency, especially concerning fiscal matters.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors
- Sutter County Auditor-Controller

INVITED RESPONSES

- Sutter County CAO

APPENDIX

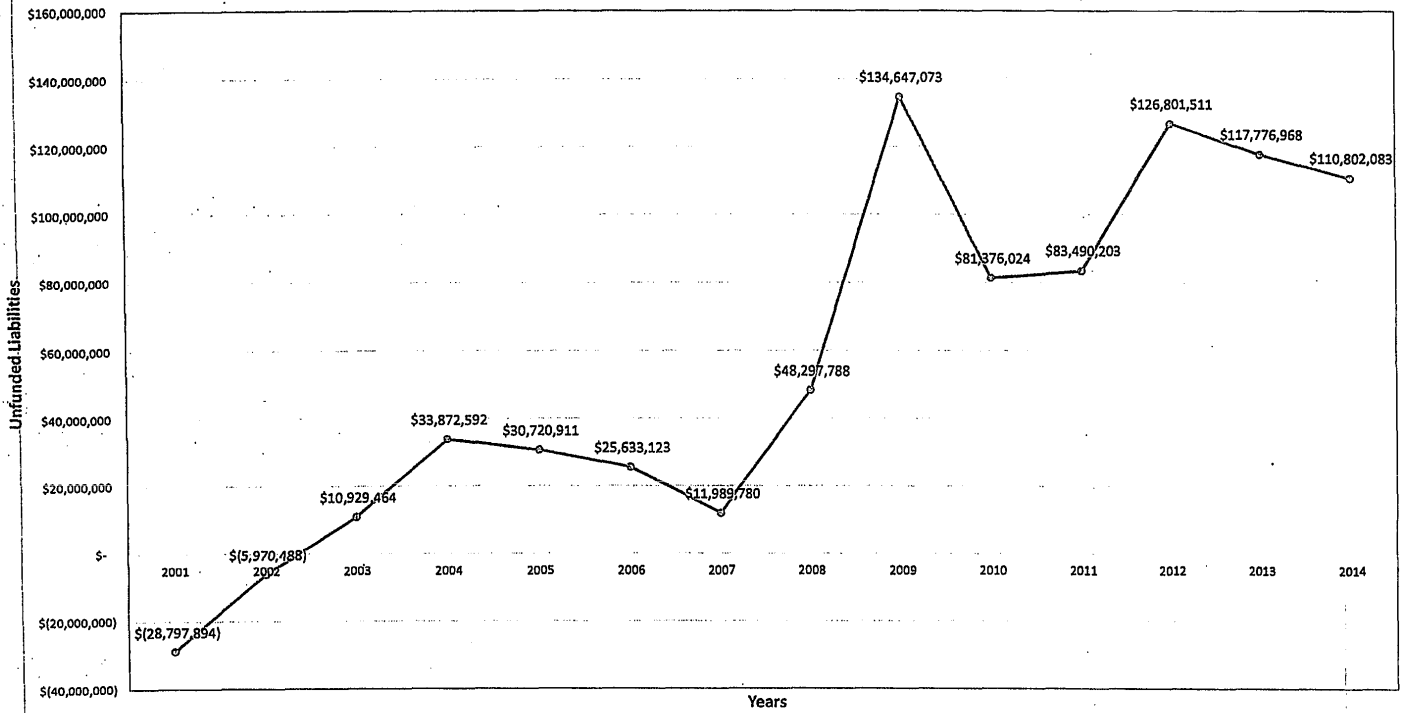
Sutter County Board of Supervisors Agenda Summary

Sutter County - Total Unfunded Pension Liabilities

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

Sutter County - Total Unfunded Pension Liabilities



Agenda August 31, 2004

The complete agenda, including backup materials is posted in the entrance of the County Office Building, 1160 Civic Center Boulevard., Yuba City, and the County Library, 750 Forbes Avenue, Yuba City. The Agenda Summary and Approved Minutes are also posted on the Sutter County Website at <http://www.SutterCounty.org>

Board of Supervisors

County of Sutter

AGENDA SUMMARY

August 31, 2004

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

Personnel Department

7) Approval of Memoranda of Understanding for the General, Professional and Supervisory Units; Addenda to Memoranda of Understanding for the Fire Safety and Law Enforcement Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees

Public Works Department

MINUTE BOOK 3-E PAGE 318

AUGUST 31, 2004

BOARD OF SUPERVISORS

COUNTY OF SUTTER, STATE OF CALIFORNIA

SESSION OF AUGUST 31, 2004

PUBLIC PARTICIPATION

Robert Stark, 1587 Holly Tree Drive, Yuba City, said that Item #7 on the Consent Calendar relating to approval of Memoranda of Understanding for the General, Professional and Supervisor Units; addenda to Memoranda of Understanding for the Fire Safety and Law Enforcement Units; and addendum to Salary and Benefit agreement for Confidential Unit employees should be considered a controversial item and should not be included on the Consent Calendar.

CONSENT CALENDAR

On motion of Supervisor Kroon, seconded by Supervisor Munger, and carried by those present, the Board approved the Consent Calendar as follows:
Clerk of the Board

Personnel Department

7) Approval of Memoranda of Understanding for the General (A04-173), Professional (A04-174) and Supervisory Units (A04-175); Addenda to Memoranda of Understanding for the Fire Safety (A04-176) and Law Enforcement (A04-177) Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees (A04-178)

Note: There was no reference to Actuarial Study Regarding Pension Enhancements for Sutter County Employees

Agenda Page 1 August 17, 2004

The complete agenda, including backup materials is posted in the entrance of the County Office Bldg., 1160 Civic Center Blvd., Yuba City, and the County Library, 750 Forbes Ave., Yuba City. The Agenda Summary and Approved Minutes are also posted on the Sutter County Website at <http://www.SutterCounty.org>

Board of Supervisors

County of Sutter

AGENDA SUMMARY

August 17, 2004

7:00 P.M. REGULAR MEETING/CALL TO ORDER

Roll Call

Pledge of Allegiance to The Flag

APPROVAL OF MINUTES

- 1) Approval of the minutes of the August 10, 2004 regular session

Agenda Page 2 August 17, 2004

PUBLIC PARTICIPATION

Members of the public will be allowed to address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board. Any member of the audience who may wish to bring a matter before the Board that has not been agendized may do so at this time; however, State law provides that no action may be taken on any item not appearing on the posted Agenda. The Board requests that comments be limited to three minutes.

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

Board Clerk

- 2) Approval of preparation of a Gold Resolution for Joseph Dailey for 26 years of service to the Sutter County Fish and Game Advisory Commission

Community Services

- 3) Set Public Hearing on the Certified Unified Program Agency (CUPA) fee schedule. Suggested date: August 31, 2004 at 7:00 p.m.

Fish and Game Advisory Commission

- 4) Acceptance of resignation of Joseph P. Dailey as District 1 representative and authorization to post vacancy

Human Services – Mental Health

- 5) Approval of final amendment to contract with State Department of Alcohol and Drug Programs for reimbursable services

- 6) Approval of submission of two applications for California State Incentive Grants for Reduction of Binge Drinking and Related Problems among Youth and Young Adults to the State Department of Alcohol and Drug Programs

Human Services – Welfare & Social Services

- 7) Approval of Official Leave of Absence for a Social Worker

Agenda Page 3 August 17, 2004

Public Works

8) Approval of award of contract to Baldwin Contracting for overlay of Garden Highway from SR 99 to North of Messick Road and authorize Public Works director to execute contract and all documents related to the administration of the contract

Sutter-Yuba Mental Health Advisory Board

9) Acceptance of resignation of Roberta Osgood as Family representative and authorization to post vacancy

Sheriff-Coroner

10) Second presentation and adoption of an ordinance to amend the Sutter County Ordinance Code by repealing Section 465-020(g) and enacting Chapter 467 relating to massage establishments and massage practitioners, and to establish a fee of \$42.00, payable to the Sheriff, for the processing of permits relating thereto

CORRESPONDENCE

11) Letter from Jim Denney, Sheriff-Coroner to Assemblyman LaMalfa regarding his efforts in helping restore the Rural Counties Public Safety funding and preservation of local booking fees

12) Letter from Sutter County Local Agency Formation Commission regarding Tierra Buena Area 2 Reorganization No. 322, LAFCO-04-06

13) Letter to the Board from Julie Stark, Community Memorial Museum expressing appreciation for the installation of the museum's new main gallery lighting

CORRESPONDENCE NOT INCLUDED IN AGENDA PACKET

14) Correspondence from the State Water Resources Control Board regarding applications 18085 and 18087, order approving petition for temporary transfer of up to 20,000 acre-feet of water to the environmental water account (cc: Public Works)

15) Agenda for the Regional Council of Rural Counties on August 18, 2004

16) Notice of Regular Meeting of the Consolidated Area Housing Authority of Sutter County for August 19, 2004

PUBLIC COMMENT

During this time, the public may comment regarding any item discussed by the Board during this meeting.

WELL 2B OR NOT 2B, HOW MUCH IS MY BILL?

SUMMARY

The Sutter County Grand Jury (SCGJ) visited the Sutter Community Services District (SCSD) at 1880 Acacia Ave in Sutter, CA on several occasions. The SCGJ was given an overview of the SCSD's history, operations, budget and the responsibilities of the SCSD District Manager and Board of Directors.

The SCSD provides water services to meet the needs of the unincorporated Community of Sutter and the area surrounding it. The SCSD is the only local potable water supplier in the area. The SCSD was designed to utilize three wells (Well 1, Well 2B and Well 3) to provide water to users within its service area. After water is pumped from the wells, it is stored in a 750,000 Gallon Storage tank where it is gravity fed to 1,096 metered connections, or approximately 3,600 residents. As of September 2015, Well 2B had been taken out of service due to exceeding the maximum contaminant level for arsenic. The maximum contaminant level for arsenic per section 64431 of California Code of Regulations (CCR), is 0.010 milligrams per liter or 10 ug/L.

Upon review of the SCSD's residents billing statements, the SCGJ found inconsistencies and negligence within the billing practices. Some residents of the SCSD have been charged an additional Base Rate fee without proper documentation supporting such charges. It was also found that on two occasions the SCSD under-charged residents for water usage after a rate increase was implemented. This resulted in a loss of revenue for the SCSD.

During the SCGJ investigations, it was found that there is a lack of understanding of the SCSD's Bylaws and Ordinances by the representatives of the SCSD. Many of the documents provided to the SCGJ were outdated and/or lacking complete references and/or understandable language.

The SCGJ recommends that an outside auditor be hired to review for billing inconsistencies and that the Bylaws and Ordinances of the SCSD should be corrected and/or updated. The SCGJ also recommends that the SCSD Board of Directors and the District Manager implement a training program to educate the SCSD representatives on the updated Ordinances and Bylaws.

BACKGROUND

The SCGJ received a number of complaints concerning the SCSD's customer service and possible billing violations. During the investigation, it was evident that a number of SCSD residents have been billed twice for a "Base Rate Fee" each month. These charges could not be substantiated within the SCSD's Ordinances.

According to a complainant, they had been charged two Base Rate fees monthly for over ten years. The complainant went to the SCSD multiple times over several years to ask about the charge and to have the second Base Rate fee removed. It was explained to them that it was because the complainant had a hose running from the house to an RV parked on the property. The resident asked if the hose was removed from the RV if the charge would be removed, but

was told by management that it would not be removed regardless of any changes the complainant made. The complainant later learned of another resident who had also been charged an additional Base Rate and was able to have it removed from their billing. The complainant went again into SCSD about the additional fee and was told it could not be removed due to an ordinance.

RESOURCES

The SCGJ:

- Interviewed:
 - Representatives of the SCSD
 - Various Customers
- Attended:
 - SCSD Board of Directors Meetings
 - Tour of SCSD Offices
- Reviewed:
 - The California Division of Drinking Water Field Operations Branch Annual Inspection Report 2015
 - Billing Records of Residents of the SCSD (See Attachment A)
 - SCSD Board of Directors Meeting's Agenda and Minutes
 - SCSD Bylaws
 - SCSD Board of Directors policy manual
 - SCSD Ordinances 91-05, 92-01, 92-02, 93-01, and 96-04
 - District Fee Schedule (March 2015 and January 2016)
 - Written Correspondence from SCSD (See Attachment B)
 - SCSD Organizational Chart
 - California State Water Resources Control Board Division of Drinking Water Annual Compliance Report 2014
 - SCSD Water Distribution Map
 - Residents' Complaints

DISCUSSION

Upon receiving a complaint concerning the SCSD, the SCGJ elected to investigate the validity of the concerns. The SCGJ conducted a tour of the facilities, interviewed representatives and residents of the SCSD, and reviewed documentation provided by the SCSD. The following is the result of that investigation.

Well 2B

Well 2 was taken out of service due to exceeding the maximum contaminant level for arsenic. A new well (Well 2B) was drilled 50 feet from Well 2 in 2012. Within three years, September 2015, Well 2B was put on "standby" due to exceeding the maximum contaminant level for

arsenic. The maximum contaminant level for arsenic per section 64431 of California Code of Regulations (CCR), is 0.010 milligrams per liter or 10 ug/L. The SCSD is looking into modifying Well 2B to determine if they can bring the water up to standard levels or to consolidate it with Well 1 and Well 3.

Additional Water Meter Base Rate Fee

According to the SCSD Ordinances, 91-05, 92-01, 92-02, and 96-04 and the SCSD District Fee schedule (See Attachment C), only one Monthly Base Rate, currently \$9.57, is to be charged per water meter hookup. Some residents with one water meter have been billed two monthly Base Rates for 12 years or more.

The SCGJ found that the additional Base Rate was charged to residents for the following reasons: an RV trailer on the property with a water hose from the house to the RV, a duplex unit, two residential structures on one property, and other residences for no apparent reason. The SCSD's District Manager and a Board of Directors (BOD) Member stated that the fee originated from an ordinance. However, the SCSD BOD and District Manager were unable to locate or substantiate that Ordinance to support an additional Base Rate charge.

The SCGJ contacted an adjacent water district regarding their Rate Schedule. The representative of that district stated that they do not charge an additional Base Rate fee for any of the circumstances within this report. They also stated that the residences are already paying for the metered usage of the water and that a second base rate is not required regardless of how the resident is utilizing the water.

Billing Statements

The SCGJ reviewed SCSD billing statements and found that some fees are incorporated into one-line item. For instance, the additional billing of the Base Rate was denoted on the billing statements as one Base Rate item. If the Base Rate had been listed on the bill as two line items, residents may have been able to identify the improper billing that was charged to them.

Incorrect Billing of Water Rates

The SCGJ reviewed several of the SCSD residents' billing statements and documents. This led to the discovery that all residents were not billed the correct rates for their water consumption on at least two occasions: March 2015 and January 2016. The water consumption rate billed did not accurately reflect the set district rates. On March 2015, the billing rate equated to \$1.04 per 100 cubic feet (cf) of water used instead of the required rate of \$1.18 per 100cf of water used. On January 2016, the billing rate equated to \$1.12 per 100cf of water used instead of the required rate of \$1.25 per 100cf of water used. The residents were charged less than the approved rates resulting in a substantial loss to the SCSD in the amount of \$3,173.38. It was found that the error occurred when an employee changed the rate and did not follow the procedures as outlined in the training manual for the billing system.

Water Rate Estimations

During the investigation of the SCSD, the SCGJ was informed of SCSD Ordinance 91-05 Article 10 Section 1008, which states: *"If a meter is found to be not registering, the charges for service shall be at the minimum monthly rate and estimated consumption. Such estimates shall be made from previous consumption for a comparable period or by such other methods as determined by the Water Department and its decision shall be final."* [Emphasis Added]

This allows the SCSD to estimate the water consumption if the meter is broken. However, it was found that water usage between 2014 and 2015 would be dramatically different and should not be estimated. In 2015, the State and the SCSD issued water saving requirements, which were not in place in 2014. Water usage varies from month to month and year to year. The difference in what one resident uses in one month as compared to the previous years or even the previous month may be extremely different. The SCGJ contacted an adjacent water district regarding their policies concerning broken water meters. The SCGJ found that it is not customary to estimate water usage when a meter is no longer registering.

Bylaws and Ordinances

The SCGJ requested the SCSD Bylaws and Ordinances to assist in this investigation. The SCGJ found the following:

The Bylaws language was difficult to understand and/or made reference to unspecified Government Code (i.e.: Article I and Article II). This does not provide a clear understanding of the qualifications and terms for the directors. Additionally, the meeting place and times listed in the SCSD Bylaws are no longer accurate (i.e.: Article III).

The Ordinances that were provided contained discrepancies and ambiguous language. Examples include:

Ordinance 91-05 Article 9 General Use Regulations

"Section 901. NUMBER OF SERVICES PER PREMISES. The applicant may apply for as many services as may be reasonably required for the applicants premises; provided that the pipeline system from each service be independent of the others and that they not be interconnected. In no case shall there be fewer than one service and one meter per family residential unit on a premises. The cost of all services shall be borne by the applicant."

"Section 902. SUPPLY TO SEPARATE PREMISES. Each premises shall have at least one connection and one meter. When two or more buildings are maintained on a single premises, one connection may serve both except as provided in section 434 hereinabove." [Emphasis Added]

The language in Section 901 is unclear concerning what is a family residential unit. Additionally, the SCGJ was unable to locate a section 434.

BOD Meeting Minutes

The SCGJ found that only the current agenda of the meeting of the BOD is posted on the SCSD website. The minutes of BOD meetings are not currently posted on the website or in the office within public view.

FINDINGS

- F1. Well 2B was shut down after being in use for three years due to exceeding the State Levels for arsenic.
- F2. SCSD is evaluating whether to consolidate Well 2B with Well 1 and Well 3 to continue to utilize Well 2B.
- F3. The SCGJ found that some residents with one water meter hookup have been billed since at least 2002 for two monthly Base Rates fees. The SCSD and SCGJ were unable to substantiate that a second Base Rate fee should have been applied.
- F4. The SCSD billing does not provide a detailed breakdown of charges. The SCGJ found that the two Monthly Base Rate charges were not itemized on the bill/statements as two separate line items.
- F5. The SCGJ found that the SCSD did not bill the residents the correct amount for water usage on two occasions, March 2015 and January 2016, which caused a loss of revenue (\$3,173.38) to the district.
- F6. The SCSD Ordinance 91-05 Article 10 Section 1008 allows the SCSD to estimate water consumption based upon prior use when a water meter is no longer functioning.
- F7. The SCSD Board of Directors/Officers and representatives of the SCSD lack a full understanding of the SCSD Bylaws, Ordinances, and Code Compliance Policies and Procedures.
- F8. The SCSD By-Laws are outdated in regards to meeting place/time and posting of meeting requirements. There is no clear definition of election qualifications and terms of directors.
- F9. The SCSD Ordinance 91-05 Article 9 Section 902 makes a reference to outdated Section 434.
- F10. The SCSD BOD Meetings' minutes are not posted for public viewing on the SCSD's website or within the SCSD's office.

RECOMMENDATIONS

- R1. An environmental review be done to determine if the consolidation of Well 2B with Well 1 and Well 3 will compromise the potable water supply with high arsenic levels.
- R2. If Well 2B cannot be consolidated into Well 1 and Well 3's potable water supply, that Well 2B be isolated for the use as fire suppression and construction utilization.
- R3. No further wells be drilled at the same site as Well 2 and Well 2B.
- R4. The SCSD immediately hire an outside auditor to review and determine the duplicate amount that was charged erroneously to residents that had only one water meter hookup. The time frame that the outside auditor should review is from January 01, 2001 to June 2016. Upon completion of the audit, the SCSD should immediately reimburse the residents affected by the additional base rate fee the full amount plus interest.
- R5. The SCSD should evaluate the billing/statements and have an itemized line for each fee charged to the residences of the SCSD (i.e.: Base Rate Fee #1, Base Rate Fee #2).
- R6. Training be implemented to all appropriate representatives of the SCSD on how to use the water usage billing system. When a consumption rate is changed within the billing system, two people should verify the rate change for accuracy. Sample billings should be printed prior to mailing to residents to ensure that the billing rates are correct.
- R7. Remove the SCSD estimating bill Ordinance 91-05 Article 10 Section 1008.
- R8. The SCSD's Bylaws and Ordinances be reviewed for accuracies in regards to compliance with current law. Additionally, identifying term limits for the SCSD Board of Directors and make proper references in the SCSD Bylaws in regards to the exact Government Code being referenced.
- R9. All representatives of the SCSD are educated on the SCSD Ordinances. Additionally, the District Manager and the BOD should familiarize themselves with the Bylaws and the Board of Directors Policy Manual.
- R10. The SCSD BOD Meetings' minutes for the prior six months be posted for public viewing on the SCSD's website and the most recent SCSD BOD meeting minutes on the bulletin board within the SCSD's office.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter Community Services District Board

INVITED RESPONSES

- Sutter Community Services District General Manager

BIBLIOGRAPHY

Sutter Community Services District Ordinances

APPENDIX

Redacted SCSD Water Bill

SCSD Written Correspondence

SCSD District Fees

DISCLAIMER

This report is issued by the 2015-2016 SCGJ with the recusal of one juror. This juror did not participate in any part of the investigation, which included interviews, deliberations, and the preparation and acceptance of this report.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

SUTTER COMMUNITY SERVICES DISTRICT
P.O. BOX 710 • SUTTER, CA 95982 • (530) 755-1733
ACCOUNT NUMBER SERVICE I.D.

RETURN TO SUTTER COMMUNITY SERVICES DISTRICT

DUE DATE

Upon Receipt

ADDRESS SERVICE
REQUESTED

FIRST CLASS MAIL
US POSTAGE PAID
SUTTER, CA
PERMIT #010

PREV. READ DATE	CUR. READ DATE	AMOUNT DUE	
12/29/15	01/27/16	36.90	
36.90	28.62		
ACCOUNT NUMBER	SERVICE I.D.		
4025	4025		
PREVIOUS READING	CURRENT READING	CONSUMPTION	AMOUNT
3210	3214	400	4.48
Test Rate			5.00
			19.14
CLOSING BANK-EVERY 2ND TUESDAY 10AM AT THE SYO			
PAST DUE AMOUNT	CURRENT CHARGES	TOTAL DUE	
0.00	28.62	28.62	
DUE DATE	AFTER 20TH OF MONTH		
Upon Receipt	36.90		

SERVICE ADDRESS

MULBERRY STREET
P.O. BOX 710
SUTTER, CA 95982

337

MULBERRY STREET
SUTTER, CA 95982-

SUTTER COMMUNITY SERVICES DISTRICT
P.O. BOX 710 • SUTTER, CA 95982 • (530) 755-1733
ACCOUNT NUMBER SERVICE I.D.

PREV. READ DATE	CUR. READ DATE			
02/25/16	03/29/16			
SERVICE	PREVIOUS READING	CURRENT READING	CONSUMPTION	AMOUNT
Water	3218	3222	400	5.00
Valve Test				5.00
Base Rate				19.14
Water Restrictions Still in Effect				
PAST DUE AMOUNT	CURRENT CHARGES	TOTAL DUE		
37.42	29.14	66.56		
DUE DATE	AFTER 20TH OF MONTH			
Upon Receipt	74.84			

SERVICE ADDRESS

MULBERRY STREET
P.O. BOX 710
SUTTER, CA 95982



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

January 13, 2016

Sutter County Grand Jury:

At the meeting on January 12, 2016, I noticed that some of your questions were directed towards notification to customers in regards to a positive samples. I would like to mention to the jury you can always call our State Water Resources Control Board. Mr. Reese Crenshaw, Senior Engineer would be glad to talk to you about the notification procedures. He also would be a good person to talk to in regards to Sutter Community Services District's management and operations.

I have tried to find the exact Ordinance that states if a trailer is on the property and hooked up to the city's water you will be charged another base rate. To date I have not been able to locate it, but as I had mentioned at the meeting, at this time we do not enforce this. I have read this in our ordinance and I am sure the Board of Directors passed it.

Thank you for taking your time to visit Sutter CSD. Should you need further information please do not hesitate to call or email me.

Sincerely,


General Manager
Sutter Community Services District

sutterwater@aol.com



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

March 3, 2016

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

Enclosed please find the information you requested at our last meeting. I have the District's legal counsel checking their files for the ordinance regarding customers being charged two base rates. I included a list of twelve customers that are being charged that double rate. The majority are two homes with one water hookup or duplex homes.

I know I told you at the meeting I would email all the requested paperwork, but I was unable to do so, I hope this is okay.

[REDACTED] should you need anything further or if I left anything out please call me and I will do my very best to follow through. It has been a pleasure meeting you and everyone on Grand Jury.

Sincerely,

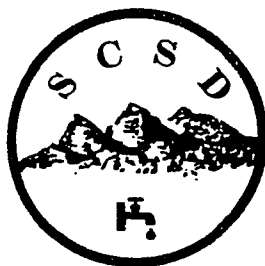
[REDACTED]
[REDACTED]
General Manager

SUTTER COMMUNITY SERVICES DISTRICT

CUSTOMERS THAT ARE BEING CHARGE DOUBLE BASE RATE – TWO RESIDENTS ON ONE LOT

- 1.) [REDACTED] BUTTE AVENUE (Two Houses)
- 2.) [REDACTED] FIRST AVE. (? Only one House)
- 3.) [REDACTED] GRIFFITH (Big motor home but not hooked up)
- 4.) [REDACTED] WALNUT (Duplex)
- 5.) [REDACTED] ACACIA AVE. (Business front home rear)
- 6.) [REDACTED] SO BUTTE ROAD (Duplex)
- 7.) [REDACTED] ACACIA AVE. (Two Houses)
- 8.) [REDACTED] MAPLE (Two Houses)
- 9.) [REDACTED] CALIFORNIA (Duplex)
- 10.) [REDACTED] MULBERRY (House and Trailer House “stationary”)
- 11.) [REDACTED] MULBERRY (? One home only)
- 12.) [REDACTED] MULBERRY (Duplex)

The list above the only 12 customers that are being charged two base rates they are mostly customers with two homes on one property.



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

DISTRICT FEES

Base Rate.....	\$9.01
Water Rate.....	\$1.18
<i>100 CUBIC FEET = 748 GALLONS (Per 100 cubic feet)</i>	
New Account Fee.....	\$13.10
Security Deposit.....	\$40.00
<i>(Reimbursement on account after 1 year with good balance history)</i>	
Late Fee (After the 20 TH of the month)	\$8.28
Shut Off Fee.....	\$22.08
Turn On Fee.....	\$22.08
Unlawful Turn On Fee.....	\$22.08
Hook Up Fee Residential (New Service).....	\$7,500
Meter Fee	\$298.13
Meter Accuracy Test.....	\$15.99
Backflow Box Concrete.....	\$25.04
Backflow Lid Steel.....	\$109.71
Backflow Lid.....	\$19.08
Backflow Valve Testing (monthly)	\$5.00
Backflow Valve Testing (annual).....	\$60.00
Outside Backflow Testing Fee.....	\$10.90
Returned Check.....	\$38.63
Broken Lock	\$18.17

***WE ACCEPT CASH, CHECK, MONEY ORDER, VISA, MASTERCARD & DISCOVER**
(Please note that there is a 3% convenience fee for all credit/debit card transactions)

**Please put your account number and service I.D. number on your check or money order.*

**You can also drop your payment off in the drop box night deposit located on the left side of the door.*

**To pay on-line visit Sutterwater.com*

OFFICE HOURS

Monday – Thursday 8:00 am – 5:00 pm

Closed Between 12:00 pm – 1:00 pm lunch

Friday 8:00 am – 12:00 pm

Closed Saturday and Sunday

Effective March 2015



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

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**To pay on-line visit Sutterwater.com*

OFFICE HOURS

Monday – Thursday 8:00 am – 5:00 pm
Closed Between 12:00 pm – 1:00 pm lunch
Friday 8:00 am – 12:00 pm
Closed Saturday and Sunday

Effective January 1, 2016

Usage Report

From: 03/01/2015 Through: 03/31/2015

Sorted By: Account Number

Service	Measure	Act Usage	Bill Usage	Adj Usage	Adj Amt	Charges
WATER	Cubic	1522300.	1522300.	0.	0.00	15802.72
VAL TEST	Gallons	0.	0.	0.	0.00	1975.00
BASE RATE	Gallons	2500.	2500.	0.	0.00	10259.78
BFL TEST	Gallons	0.	0.	0.	0.00	94.50

Number of Accounts 1050
 Number of Locations 1123
 Account/Location Combinations 1137

15223 CF usage @ 1.04 = \$ 15802.72
 error charge

15223 CF usage @ 1.18 = 17963.14
 \$ 2160.42

Loss Revenue
 customers under
 charged.

Usage Report

From: 01/01/2016 Through: 01/31/2016

Sorted By: Account Number

	Service	Measure	Act Usage	Bill Usage	Adj Usage	Adj Amt	Charges
rand							
otals							0
	WATER	Cubic	779200.	779200.	0.	0.00	8759.24
	VAL TEST	Gallons	0.	0.	0.	0.00	2000.00
	BASE RATE	Gallons	0.	0.	0.	0.00	10958.29
	BFL TEST	Gallons	0.	0.	0.	0.00	480.00
	Number of Accounts		1048				
	Number of Locations		1121				
	Account/Location Combinations		1127				

7792 - cf. usage @ 1.12 = 8727.04
 error charged

7792 cf usage @ 1.25 = 9740.00

\$1,012.96

indie charged
 customer

January 2016

AN OUTLOOK ON SUTTER COUNTY PUBLIC BUILDINGS

SUMMARY

The Sutter County Grand Jury (SCGJ) toured several Sutter County government buildings and facilities. What the SCGJ concluded was that the County needs to focus on several areas of concern. Namely, they need to upgrade a Facilities Master Plan which should focus on consolidation of compatible County departments into a single facility as well as developing a comprehensive telecommunication plan to address the future needs created by growth and advanced technology. Currently, the County appears to be reacting to the changing dynamics in a disjointed and inefficient manner wasting taxpayer dollars. Another issue of concern is the age of many of the County buildings which are near or past their useful lives. This has resulted in increased maintenance costs and custodial demand while exposing both staff and the public to potential health and safety issues. A third issue of concern is that several of the buildings appear to be out of compliance with the Americans with Disability Act (ADA) exposing the County to litigation and/or Federal enforcement.

GLOSSARY

Facilities Master Plan: The purpose of the plan is to develop and communicate an efficient process to change the County facilities to better accommodate and support its current and future needs on a regularly updated basis.

Telecommunication Master Plan: A strategic road map for telecommunication development in the County to meet present and future needs.

Americans with Disabilities Act: The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

BACKGROUND

The SCGJ identified locations for inclusion in this year's review of County facilities. Two locations, Child Protection Services and Oswald-Tudor Fire Station, were toured as a follow-up to the 2014-2015 SCGJ Report to determine if prior recommendations had been addressed.

The Sutter County General Services Department (GSD) has oversight in regards to County facilities. The SCGJ requested from the GSD several documents pertaining to the County's building and maintenance responsibilities. Those documents are listed below.

RESOURCES

The SCGJ:

- Interviewed:
 - Representatives of the County

- Toured:
 - 44 2nd St, Yuba City, CA (Whiteaker Hall)
 - 433 2nd St, Yuba City, CA (Clerk-Recorder's Office)
 - 463 2nd St, Yuba City, CA (Courthouse East)
 - 466 2nd St, Yuba City, CA (Hall of Records/Board of Supervisors Chambers)
 - 512 2nd St, Yuba City, CA (General Services Information Technology Division)
 - 1280 Barry Rd, Yuba City, CA (Oswald-Tudor Fire Station)
 - 1130 Civic Center Blvd., Yuba City, CA (Development Services)
 - 1077 Civic Center Blvd, Yuba City, CA (Sutter County Jail)
 - 1965 Live Oak Blvd, Yuba City, CA (Child Protective Services)
 - 275 Samuel Dr, Yuba City, CA (General Services Fleet Management)
 - 10321 Live Oak Blvd, Live Oak, CA (Sutter County Library – Barber Branch)
 - 2147 California St, Sutter, CA (Sutter County Library – Sutter Branch)
- Reviewed Documents:
 - County Owned Property Occupied by County Departments
 - Leased Property Occupied by County Departments (Lessee)
 - County Property Leased to Others
 - Maintenance requests and projects for the past 24 months
 - Listing of all employee injury and/or health incidents by facility for the past 24 months
 - Listing of all environmental health inspections for the past 24 months
 - A copy of the most recent Facilities Master Plan (Draft 2000)
 - Information regarding the maintenance of Whiteaker Hall
 - Properties available for rental to non-County users

DISCUSSION

Need of a Facilities Master Plan

In the last sixteen years, the County has failed to finalize, adopt or update a Facilities Master Plan. Such a plan outlines a strategy, needs assessment, and methods to plan and manage space. With the completion of the new court house, the County has an opportunity to improve the efficient use of additional space. However, without a master plan, it appears to be acting in a disjointed and uncoordinated manner. For example, the entire second floor of the building located at 463 Second Street, which had been used for court rooms, was completely vacated and is vacant at the time of this report. Security was eliminated when the court vacated the building exposing the Treasurer-Tax Collector, the Auditor-Controller and the District Attorney to increased vulnerability. Note: The County has only recently addressed this issue by hiring a private security firm. However, a question is raised as to the adequacy of security in view of the significantly increased revenue that the Treasurer-Tax Collector handles during certain times of the year.

Another example of a lack of planning occurred on February 25, 2014, when the Sutter County Board of Supervisors (BOS) approved a contract with Chevron Energy Solutions to erect ten solar arrays among other energy saving upgrades. A loan was provided by PNC Equipment,

LLC in the form of a Master Equipment Lease-Purchase agreement, committing the County to pay back 9.1 million dollars over a fifteen year period plus a 1.5 million dollar down payment. The energy savings was to fund the project over a period of years. However, the lack of a current Facilities Master Plan resulted in solar panels going on or near dilapidated buildings that couldn't provide the space or support the structures. The largest array was to be erected on the Sutter County Airport but had to be constructed at an alternate site because of complications which would have created an extended delay. At the time of this report, nearly two thirds of the solar arrays are yet to be connected to the grid. Although, two annual payments to PNC have already been made costing the County hundreds of thousands of dollars because of delayed energy production.

Although requested, the County could not provide a comprehensive telecommunications plan. Such a plan is crucial for directing telecommunications technology and should be a factor when developing a Facilities Master Plan. Current systems, as well as a lack of future directions, may pose significant challenges in planning for future facilities. Telecommunication requirements could present significant costs to the County and should be a key component when planning for the future.

Need for Consolidation

County buildings are scattered throughout Sutter County, often miles apart, exposing employees and the public to traffic, wasted time and money, just to handle the basic needs of the various government services. For example, if a taxpayer needed to visit the Assessor's Office located on Civic Center Blvd and then needed to go to the Treasurer-Tax collector on Second Street to pay the tax bill, the tax payer is required to travel across town to do so.

Aging Facilities

Child Protective Services (CPS) is housed in temporary structures that have long ago become obsolete. This provides an unhealthy and depressing environment for staff and the families involved who are already emotionally stressed and need a clean and secure environment.

The Oswald/Tudor fire station on Barry Road houses fire engines that no longer can fit into the existing structure. Expensive equipment is exposed to the elements, vandalism and theft.

ADA Compliance Issues

Several building were observed that appear to be out of compliance with ADA requirements. The branch libraries in Sutter and Live Oak are outdated buildings with broken sidewalks, poor parking and bathroom facilities which do not adequately meet accessibility standards.

The following facilities were inspected:

1965 Live Oak Blvd, Yuba City, CA (Child Protective Services)

CPS is a division within the Welfare and Social Services Department. CPS is the major system of intervention of child abuse and neglect in California and is often the first official agency that these children come in contact with. The facility housing this service is a group of older modular buildings with sagging floors, a leaking roof and other structural problems. The gravel parking lot

has inadequate drainage (Attachment A) and lighting affecting the safety of staff and their clients. The overall environment is unattractive and provides little security.

1280 Barry Rd, Yuba City, CA (Oswald-Tudor Fire Station)

The SCGJ conducted an investigation into the Oswald/Tudor Fire Station, which details the ongoing issues at this location. Some repairs as addressed in the 2014-15 SCGJ report have been completed, including new siding and roof replacement. (See Fire/Emergency Report)

44 2nd St, Yuba City, CA (Whiteaker Hall)

Whiteaker Hall is managed by the Sutter County Sheriff's Office. Although its main function is a training facility, it is also rented to the public for social events, and houses the Sheriff's Office work release program. For public events the facility requires a deposit of \$200 and a fee of \$150, making it the least expensive of the three halls available to rent from Sutter County. Rental of the facility includes use of the main hall, lounge, a large outdoor area, restrooms, a full kitchen with refrigerators, oven/stove tops, and sinks. During the prior fiscal year the facility has been rented to the public forty-eight times.

During the tour of Whiteaker Hall, a number of maintenance and custodial issues were observed. The interior of the building is dirty and unsightly. The main hall of the building, where the majority of events are held, has a large number of cosmetic issues that need attention. For example, the ceiling tiles are stained and damaged beyond repair. The kitchen was filthy, with visible dust, spider webs and evidence of other pests. This was especially true regarding the stove and sink areas. The bathrooms appeared clean, however had visible mold in the men's restroom and the shower areas had a musty odor. The bar area appears worn with minor damage to the walls and missing tiles on the ceiling.

The grounds were well maintained. The parking lot was adequately paved with no apparent damage and was free of debris. The outside patio and range were clean. The grass was well groomed, and the out buildings appeared well maintained. It is important to note that the range is only usable by authorized personnel. It also should be noted that the SCGJ was unable to access several storage areas as well as the Sheriff's Office Work Release Program administrative area during this visit.

433 2nd St, Yuba City, CA (Clerk-Recorder's Office)

During the tour it was noted that the facility lacks dedicated handicapped parking and the high ceilings inhibit efficient heating and cooling. The interior, however, appears to be functional and remains serviceable for County needs.

463 2nd St, Yuba City, CA (Courthouse East)

This courthouse no longer functions as a court. All court functions have been moved to the new courthouse which has left much of Courthouse East vacant and unused. The building is two stories with only a portion of the lower floor being occupied by County departments. The entire second floor is not being utilized by the County. The elevator has been disabled and the staircase

is blocked with yellow "Do Not Enter" tape on the base of the stairs and a row of chairs at the top of the stairs.

The Sutter County Courts have not removed all of the furnishings used during the Courts' service at this location. However, if additional County operations are moved into this location, they may be utilized by those departments.

At the time of this report, there was not a known published plan as to occupancy and the reuse of this building. The building could be utilized by current County departments that are lacking adequate space to conduct their work. One example is the Treasurer-Tax Collector's Office. Another example is the GSD Information Technology Division, which could be consolidated into a single location. Also, the SCGJ could utilize this space because there is room to store their records and conduct other routine grand jury functions. The SCGJ currently shares a facility with another County department. This is an inconvenience to both the current occupants of that facility and the SCGJ.

466 2nd St, Yuba City, CA (Hall of Records/Board of Supervisors Chambers)

Most of the regular meetings of the Sutter County Board of Supervisors (BOS) occur at the Sutter County Hall of Records. This building is also used for study sessions, Sutter County Planning Commission meetings, or other public meetings, when available.

BOS meetings are recorded on video and streamed live on the Internet. They are aired on Comcast Cable Channel 18 at 8 p.m. on Wednesday night following the Tuesday night meetings.

The Hall of Records is a very old building and suffers from a number of problems. A few of those problems are as follows:

- Poor acoustics. The public often cannot hear what the speakers are saying and this is often aggravated when microphones are turned off.
- A lack of modern bathroom facilities. Attendees must use the facilities in an adjoining building with access via an uncovered sidewalk. This is inconvenient at best and very difficult to use for individuals with mobility issues.
- A poor storage environment. The County Administrator's office stores County records in the basement of the building. This places the records in a poor environment subject to floods, poor climate control and difficult access. The space is not monitored for unwanted entry, moisture or fire. The basement is shared by the control room housing the camera system used to "live feed" the Internet. The SCGJ was unable to gain access to the control room or the small bathroom facility used by staff.

512 2nd St, Yuba City, CA (GSD Information Technology Division)

A majority of the GSD IT staff work at this location. However, a majority of the equipment is located elsewhere. Staff are regularly required to commute to Courthouse East to conduct routine activities.

1130 Civic Center Blvd., Yuba City, CA (Development Services)

The Sutter County Development Services includes multiple divisions and functions: Building Services, Environmental Health, Fire Service Administration, Planning Services, Planning Commission coordination, Public Works Engineering, Road Maintenance and Water Resources. Investigation revealed that the consolidation of staff and the significant storage of paper records have resulted in cramped working conditions for this department.

1077 Civic Center Blvd, Yuba City, CA (Sutter County Jail)

The age of the older jail structure and internal equipment is the cause of growing problems. Due to age, security gate hardware for the doors and cells is often not commercially available. Thereby, requiring custom solutions be developed or created to maintain a secure environment.

The lack of air conditioning continues to be an issue with both staff and inmates. Some inmates located at the Sutter County Jail are on medications that require the inmate to be kept in an environment under 80 degrees. When inmates are given temperature sensitive medications and are then exposed to a temperature that conflicts with the medication, it can cause adverse reactions to the inmate including making them less cooperative and temperamental. In turn, this makes the corrections officers' duties more difficult to complete.

The housing of AB109 inmates has introduced more plumbing maintenance issues. Inmates place a variety of items in toilets with the intent of causing plumbing system problems. Antiquated plumbing and disposal methods require staff to physically penetrate concrete floors to address issues within the jail structure. Materials are also causing problems with the city treatment plant. This requires additional processes, equipment, and services to process the sewage leaving the jail prior to delivery to the City waste collection system.

275 Samuel Dr, Yuba City, CA (GSD-Fleet Management)

The fleet maintenance center appeared well kept, clean, functional and safe. Recent additions to overhead structures have improved working conditions. GSD staff reported that heavy traffic had caused natural gas line issues due to vibration. This problem has been corrected.

10321 Live Oak Blvd, Live Oak, CA (Sutter County Library – Barber Branch)

The library is located on the main highway with limited off-street unpaved parking and no designated Handicap parking or other ADA accommodations. The single bathroom also appears out of ADA compliance or other current accessibility standards. The exterior of the structure is in need of minor maintenance, such as crack repairs, painting and window caulking. The windows appear old and not energy efficient.

2147 California St, Sutter, CA (Sutter County Library – Sutter Branch)

The Sutter Branch of the Sutter County Library has limited unpaved parking and no designated ADA accessible parking. Additionally, exterior ADA accommodations were not apparent. The single bathroom also does not meet ADA or other current accessibility standards. The interior is well lit, open and organized. At least one half of the ceiling lacks insulation. The remaining half was enclosed so the SCGJ was unable to determine the status in that portion of the ceiling. The

heating and cooling system was recently upgraded and staff report that it is suitable for the buildings current needs.

FINDINGS

- F1. The County's current Facilities Master Plan is outdated and doesn't address current facility needs. Additionally, the County does not have a comprehensive telecommunications plan.
- F2. The County has recently upgraded energy savings components including solar systems on buildings and sites that may not be appropriate for future needs.
- F3. Many of the County buildings are near or past their useful lives, requiring increased maintenance costs and modernization to accommodate changing needs.
- F4. Whiteaker Hall does not meet the same standards in regards to maintenance and custodial care as observed in other County facilities.
- F5. Space is available at 463 Second Street. However, there is no published plan on how to utilize it.
- F6. Records stored in the basement of the Hall of Records are at risk of being lost, damaged or destroyed. They are also in a location which is difficult to access.
- F7. The Sutter County Jail has internal equipment problems due to age. The security gate hardware is often not commercially available requiring costly custom solutions. Evaporative cooling systems provide inadequate cooling for certain inmates suffering from medical conditions or treatments. There are additional plumbing maintenance issues attributed to the Housing of AB109 inmates, increasing the pressure on the antiquated plumbing.

RECOMMENDATIONS

- R1. The County should expedite the development of both short and long term facilities master plans. This will alleviate confusion, reduce unnecessary modifications, and maintenance challenges. This will also minimize business unit disruptions currently plaguing County departmental operations. A comprehensive telecommunications plan should be developed in conjunction with the development of a facilities master plan. Consolidation of departments should be utilized wherever possible in the design of this Master Plan.
- R2. An audit of all of the County facilities should be conducted as soon as possible for ADA compliance.
- R3. A standard checklist for routine maintenance should be adopted by General Services and initialed by those responsible after accomplishing those duties on the list. A regularly scheduled follow up inspection should be performed at these facilities.

- R4. Aging buildings and facilities should be upgraded or replaced as soon as possible. The Sutter County Jail, Child Protective Services modular buildings and the Oswald-Tudor fire station should be the top priorities.
- R5. The BOS meeting place should be relocated to a more suitable location (ADA Compliant). A more suitable storage location for the records should be developed.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Sheriff (F7, R4)
- Sutter County Board of Supervisors

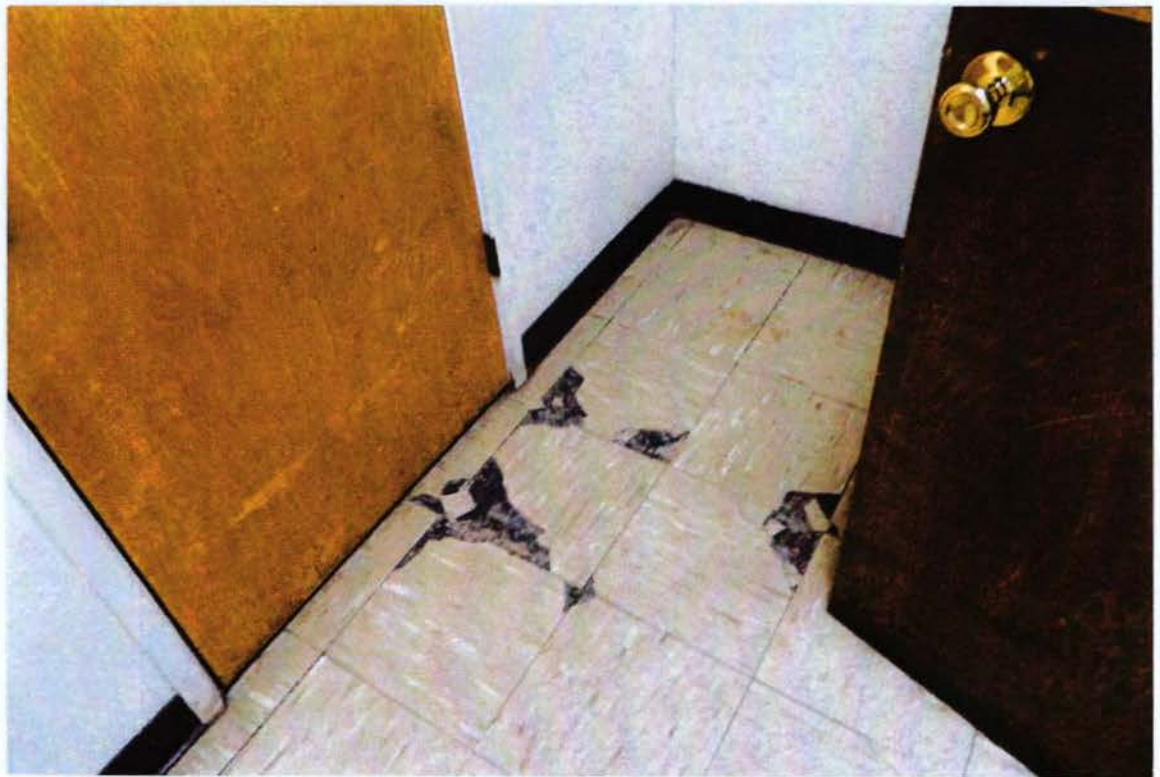
INVITED RESPONSES

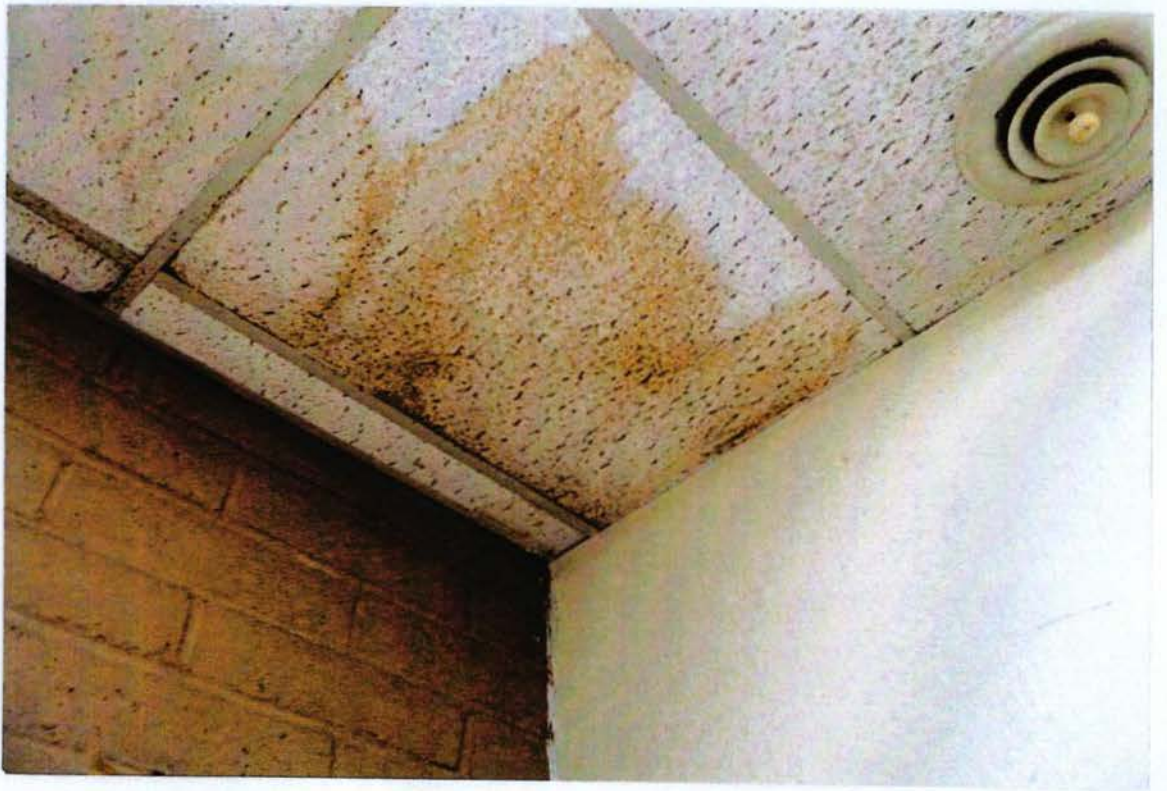
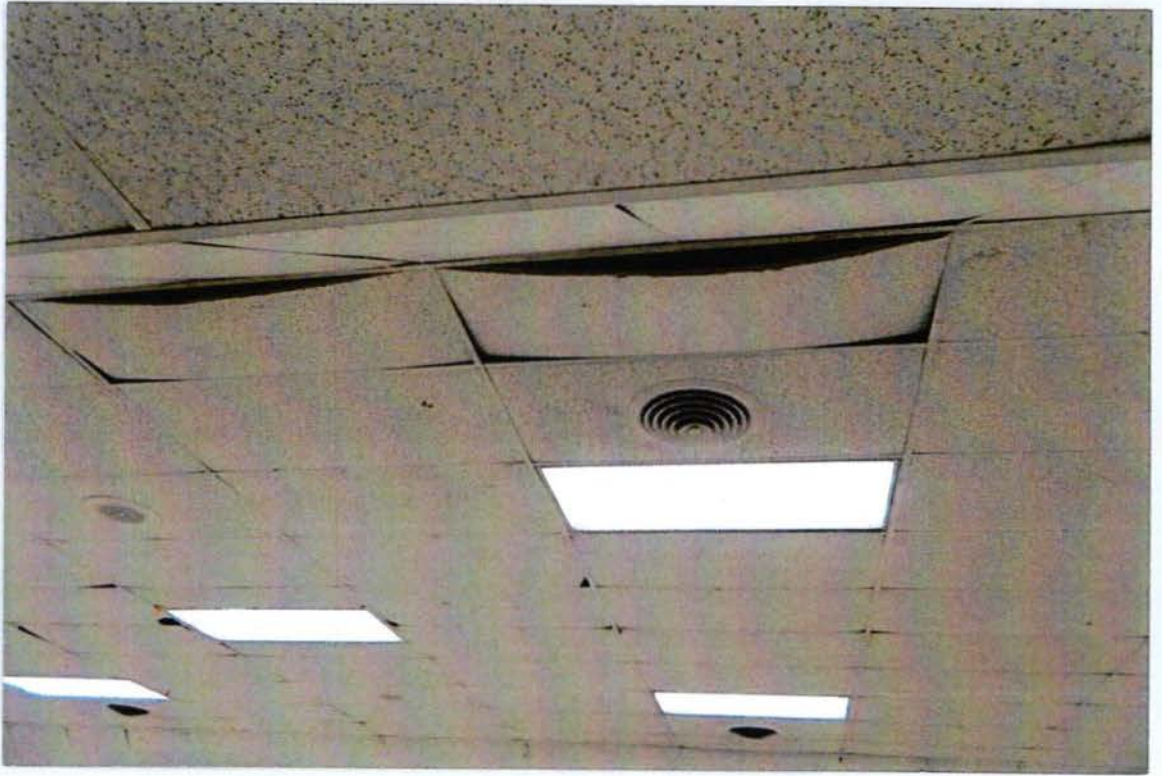
- Sutter County CAO
- Director of General Services Department

DISCLAIMER

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ENDORSED FILED

MAY 27 2016

**Report
of the
2015-2016**

Sutter County Grand Jury

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

**Steven Meyer-Foreperson, Addam Heltsley, Andrew Sampeck, Annette Roach,
Carrie Mitchell, Christy Cook-Pratt, Gail Stillwell, Gerald Marta, Jacqueline McLaughlin,
John Forberg, Kristen Hart, Marianne Ethington, Pablo Fischetti, Perry Pasquale,
Richard Libby, Richard Snyder, Teresa Smith, William Carter**

**Final Report [pursuant to Penal Code 933(a) on subject:
A Need for Greater Public Transparency: COIN**



**Steven Meyer
2015-2016 Foreperson**

May 18, 2016
Date

**Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code
("Powers and Duties of the Grand Jury").**



**Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County**

May 20, 2016
Date

A NEED FOR GREATER PUBLIC TRANSPARENCY: CIVIC OPENNESS IN NEGOTIATIONS (COIN)

SUMMARY

Civic Openness in Negotiations (COIN) is an ordinance that brings greater transparency to the public regarding labor negotiations between the local legislative body and its employees involving wages, conditions of employment, and benefits.

The Board of Supervisors (BOS) negotiates expensive contracts with many entities without adequate public input. There has been little or no input from the public due to a lack of knowledge regarding contracts and negotiations because of minimal transparency in Sutter County. These contracts are approved, many times, without an independent economic analysis. It is necessary to conduct an economic analysis because their purpose is to describe the actual fiscal costs of these contracts.

The SCGJ recommends the BOS should adopt a (COIN) ordinance. The SCGJ recommends it is in the best interest of the County to employ an internal auditor to ensure compliance with the requirements of (COIN).

BACKGROUND

The SCGJ was given information regarding an ordinance approved by the city of Costa Mesa that was titled "Civic Openness in Negotiations (COIN)."

Traditionally, labor negotiations have been done behind closed doors, with virtually no oversight or input from the public. In 2012, the city of Costa Mesa approved an ordinance that would require negotiations between the City Council and its employees to be made public. The objectives of (COIN) are as follows:

- Bring maximum sunshine [exposure] to the negotiations of the most expensive contracts in which the city enters.
- Bring in a professional negotiator to represent the taxpayers' interest.
- Give the public easy access to the cost of each benefit under consideration.
- Show the public each offer and counteroffer.
- Allow for ample time for the public and media to examine the contract before it is approved by the legislative body.

Similarly to Costa Mesa (before its adoption of COIN), Sutter County BOS also conducts its labor negotiations behind closed doors. The SCGJ received documents regarding COIN and reviewed Sutter County policy and past practices in labor negotiations. The SCGJ initiated an investigation to consider whether COIN would be beneficial to the citizens of Sutter County and the BOS.

RESOURCES

The SCGJ:

- Interviewed:
 - Sutter County Auditor-Controller
 - Sutter County County Counsel
 - Sutter County Taxpayers' Association
- Reviewed Documents:
 - Costa Mesa COIN informational PowerPoint (Attachment A)
 - BOS' Meeting Agendas and Minutes
 - Sections of the California Government Code

DISCUSSION

In Sutter County, labor negotiations are generally held behind closed doors where a professional negotiator is hired to bring the various entities together. Once an agreement is resolved, the proposal is brought forward for a vote by the BOS. The public is not involved in negotiations or made aware of the agreement until the agenda is published, which is generally the Friday prior to the board meeting on Tuesday evening. As a result, little time is given for the public to process and analyze how the agreement will affect the budget or County resources. Generally, there is no independent economic analysis provided.

Two examples of the County's adoption of contracts that imposed a significant financial obligation on the part of its citizens with a minimum of public review follow:

- On August 31, 2004, an enhanced retirement package for the Sutter County employees was approved by the BOS on the consent calendar, even though the Sutter County Auditor/Controller requested that it be pulled and placed as an action item. As a result, the public was precluded from participating in the decision making process. There was no independent analysis provided. The supporting material was written in an unclear manner; and by placing it on the consent calendar, public discussion was blocked. (See Pension Enhancement Report)
- On February 25, 2014, a \$10,500,000 agreement with Chevron Energy Solutions was approved by the BOS. The purpose of the agreement was to build a series of solar arrays, upgrade HVAC systems, and provide other energy saving improvements which were designed to reduce the County's energy costs. The system was designed and rushed through for approval without an independent financial analysis and with only minimal public input. **The BOS even denied the request by the Sutter County Auditor-Controller to delay the vote until further study on the financial impact of the project could be studied.** (See SCGJ Chevron Solar Report)

Recognizing the need for more open government, the Governor of California approved Senate Bill No. 331. This bill encourages counties, cities and special districts to establish specific

procedures for the negotiation and approval of significant contracts that would allow the public to be better informed.

SB 331 Section 22176 refers to negotiations with employees and states, in part, that any: *city, county or special district that adopts a "civic openness in negotiation" (COIN) ordinance is required to use any of the following as a part of any collective bargaining process undertaken pursuant to the Meyers-Milias-Brown Act:*

- a. Preparation of an independent economic analysis describing the fiscal costs of benefit and pay components currently provided to members of a recognized employee organization, as defined in Section 3501 of the Government Code.*
- b. The completion of the independent economic analysis prior to the presentation of an opening proposal by the public employer.*
- c. Availability for review by the public of the independent economic analysis before presentation of an opening proposal by the public employer.*
- d. Updating of the independent economic analysis to reflect the annual or cumulative costs of each proposal made by the public employer or recognized employee organization.*
- e. Updating of the independent economic analysis to reflect any absolute amount or change from the current actuarially computed unfunded liability associated with the pension or postretirement health benefits.*
- f. The report from a closed session of a meeting of the public employer's governing body of offers, counteroffers, or supposals made by the public employer or the recognized employee organization and communicated during that closed session.*
- g. The report from a closed session of a meeting of the public employer's governing body of any list of names of persons in attendance during any negotiations session, the date of the session, the length of the session, the location of the session, or pertinent facts regarding the negotiations that occurred during a session.*

SB 331 Section 22178 refers to contractual agreements and to contracts with a value of at least two hundred fifty thousand dollars (\$250,000) within the fiscal year approved by the city, county or special district shall designate an unbiased independent auditor to review the cost of any proposed contract.

In part, that: *(b) The independent auditor shall prepare a report on the cost of the contract and provide the report to all parties and make it available to the public before the governing body takes any action to approve or disapprove the contract. The report shall comply with the following:*

- 1. The report shall include a recommendation regarding the viability of the contract, including any supplemental data upon which the report is based, and shall determine the fiscal impacts attributable to each term and condition of the contract.*

2. *The report shall be made available to the public at least 30 days before the issue can be heard before the governing body and at least 60 days before any action to approve or disapprove the contract by the governing body.*
3. *Any proposed changes to the contract after it has been approved by the governing body shall adhere to the same approval requirements as the original contract. The changes shall not go into effect until all of the requirements of this subdivision are met.*

FINDINGS

- F1. The Sutter County Board of Supervisors has negotiated expensive contracts with various entities, including the employees' union representatives, with little or no public input or knowledge.
- F2. Often, these contracts were approved without an independent economic analysis describing their fiscal costs.

RECOMMENDATIONS

- R1. The BOS adopt, by the next fiscal year, a Civic Openness in Negotiations (COIN) ordinance.
- R2. The BOS employ an internal auditor, by the next fiscal year, to ensure compliance with the requirements of (COIN).

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors
- Sutter County Auditor-Controller

INVITED RESPONSES

- Sutter County CAO

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