

# **Stanislaus County Civil Grand Jury**



## **2014-2015 FINAL REPORT**

# Stanislaus County Civil Grand Jury 2014-2015 Final Report

## TABLE OF CONTENTS

|                                     |     |
|-------------------------------------|-----|
| Letter to the Presiding Judge ..... | ii  |
| Civil Grand Jury Roster .....       | iii |

### SUBJECTS OF INVESTIGATION

|           |         |  |    |
|-----------|---------|--|----|
| Part I    | 15-01GJ | Patterson City Council .....   | 1  |
| Part II   | 15-02C  | Stanislaus County Public Transit Systems.....                            | 19 |
| Part III  | 15-03C  | Oakdale Airport .....  | 23 |
| Part IV   | 15-04GJ | Stanislaus County Jail Facilities Inspection .....                       | 25 |
| Part V    | 15-05C  | East Side Mosquito Abatement District.....                               | 33 |
| Part VI   | 15-16GJ | Local Effects of Prison Realignment (AB 109)<br>And Proposition 47 ..... | 37 |
| Part VII  | 15-17GJ | Teach Them Well and Let Them Lead the Way .....                          | 59 |
| Part VIII |         | Continuity Committee General Report .....                                | 67 |

*Cover photo taken by grand jury member Chau-Marie Griffiths.*



## STANISLAUS COUNTY CIVIL GRAND JURY

Post Office Box 3387 • Modesto, California 95353 • (209) 558-7766 • Fax (209) 558-8170

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June 30, 2015

The Honorable Marie Sovey Silveira  
Presiding Judge of the Superior Court of California  
800 11<sup>th</sup> Street  
Modesto, Ca. 95354

Dear Judge Silveira,

The 2014-2015 Stanislaus County Civil Grand Jury is pleased to submit the final report of the investigations of complaints submitted by members of the public, investigations initiated by the civil grand jury, and mandated inspections of law enforcement facilities.

On behalf of all the jurors I would like to thank you and Judge Begen, the County Counsel, the Court Executive Officer/Jury Commissioner, the Research Attorney for the Stanislaus County Superior Court and the Civil Grand Jury Assistant for the guidance and counsel we received.

The jurors took the duty they were charged with very seriously and gave careful consideration to every complaint received and every investigation initiated. They spent months compiling research, interviewing witnesses, and evaluating information. They should be commended for the diligence and attention to detail that resulted in this final report. It has been an honor to serve as the foreperson of the civil grand jury.

Sincerely,

Judy Navarro  
Civil Grand Jury Foreperson  
Fiscal Year 2014-2015

**Stanislaus County Civil Grand Jury  
2014-2015 Grand Jury Roster**

| <b>Name</b>                              | <b>Resident of:</b> |
|--|---------------------|
| Brian R. Bigelow                         | Modesto             |
| Anthony R. Delgado                       | Modesto             |
| David Duarte                             | Modesto             |
| Jason Flores*                            | Modesto             |
| Chau-Marie G. Griffiths                  | Modesto             |
| Linda J. Harris                          | Modesto             |
| Susan Hickerson*                         | Modesto             |
| Kathleen E. Jenner (Recording Secretary) | Modesto             |
| Roger H. Jackson                         | Turlock             |
| Gary L. Jones (Foreperson Pro tempore)   | Turlock             |
| Judy Navarro (Foreperson)*               | Modesto             |
| Raymond O. Newman                        | Modesto             |
| Robert J. Philbrook                      | Modesto             |
| Dalbir S. Plaha*                         | Denair              |
| Akpene K. Ranson                         | Modesto             |
| Robert E. Smith                          | Modesto             |
| Matthew J. Speckman                      | Modesto             |

\*Denotes holdover jurors

Part I  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-01GJ - Patterson City Council**

# 2014-2015 Stanislaus County Civil Grand Jury

## Case # 15-01GJ

### City of Patterson

#### SUMMARY

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) investigated the City of Patterson's acquisition of the building, designated as the City Hall Annex Project, located at 21/25 S. Del Puerto Avenue.

The 2014-2015 SCCGJ found that there was a disregard for government regulations pertaining to property purchase and a consistent lack of due diligence on the part of the then City Council and City Administration. The purchase of the building was completed prior to having many, if not all, of the required inspections, feasibility reports, structural engineering reports, CEQA documentation and government code compliance.

As a result, the City of Patterson paid approximately \$650,000.00 for a one hundred year-old building that is incapable of operating as a City Hall Annex without additional costly repairs and/or upgrades, estimated to be \$2,400,000.00, to bring the building up to structural and government code compliance.

#### GLOSSARY

**ADA** Americans with Disabilities Act

**CEQA** California Environmental Quality Act

**CASp** Certified Access Specialist program

**SCCGJ** Stanislaus County Civil Grand Jury

**Ralph M. Brown Act** An act of the California State Legislature and government code designed to ensure transparency of meetings of government bodies. Among its provisions are requirements related to closed sessions and real property negotiations.

**Class B building occupancy** Business occupancy (standard commercial use)

**Class A building occupancy** Assembly occupancy (any space where the public is present)

#### BACKGROUND

On August 9, 2011, during a regularly scheduled meeting of the Patterson City Council, a councilmember suggested the city investigate current community needs and available properties. The vision expressed the need for possible City Hall expansion in the form of a City Hall Annex building that could provide additional space for the Chamber of Commerce, Historical Society,

public meeting room, and Patterson Apricot Fiesta. The expansion would help promote cultural and economic interests in the city.

The City of Patterson City Council purchased property located at 21/25 S. Del Puerto Avenue, from a local developer with the intention of using the property as the aforementioned City Hall Annex.

The City of Patterson is required to follow certain procedures and regulations during the acquisition of public property. These regulations include the Ralph M. Brown Act (Gov. Code, section 54950 et seq.) and the local Planning Law (Gov. Code, section 65100 et seq.).

On May 29, 2014, the 2013-2014 SCCGJ received a complaint alleging the City of Patterson failed to submit a plan to the City of Patterson Planning Commission for determination of general plan conformity, and conduct structural, environmental and ADA compliance studies prior to finalizing the purchase of the building.

By failing to conduct the necessary studies and inspections, the city has purchased a building that will require an estimated \$2,400,000.00 of improvement/replacement costs in order to be brought up to commercial code requirements.

On July 30, 2014, the 2014-2015 SCCGJ reviewed the initial complaint and accepted the matter for investigation. The complaint was designated as complaint # 15-01 GJ.

## **METHODOLOGY**

The 2014-2015 SCCGJ conducted its investigation using the following methods:

### **Interviewed and/or communicated with the following individuals:**

- Complainant
- City of Patterson Mayor
- Current City of Patterson City Manager
- City of Patterson Council Member
- City of Patterson Finance Director
- City of Patterson City Attorney

### **Reviewed the following documents/meetings:**

- Sales agreement
- Escrow instructions
- Engineering reports
- E-mails regarding building purchase and subsequent structural, environmental and compliance reports

- City of Patterson City Council meeting agendas and minutes ranging from August 2011-December 2013
- City of Patterson City Council agenda reports
- Patterson Irrigator newspaper articles
- Attended City Council meeting, December 16, 2014

## **DISCUSSION**

According to the Complainant, City of Patterson officials wanted to purchase buildings, in close proximity to City Hall, to operate as a City Hall Annex. City officials chose two properties adjacent to city hall and entered into negotiations with the local developer who owned the properties. The terms of the purchase were agreed upon and concluded before all required inspections of the property were completed.

The Complainant claims the net result is a building that cannot be used unless extensive repairs and upgrades are made bringing the building up to applicable code requirements.

In addition, while reviewing the complaint, the 2014-2015 SCCGJ discovered violations of the Brown Act related to acquisition of real property as discussed below.

Subsequent to the initial discussion on August 9, 2011, the City of Patterson City Council moved forward with the idea of acquiring property for the proposed City Hall Annex. The City Council directed the City Manager to retain The Sword Company to perform a Community Needs Assessment/Available Real Estate analysis.

On October 25, 2011, The Sword Company reported research was conducted regarding similar facilities in other communities and presented six parcels for potential consideration. The property at 21/25 S. Del Puerto Avenue owned by a local developer was deemed competitive and useable as a City Hall Annex.

On February 15, 2012, Stephen R. Clark Appraiser and Consultant Inc. appraised the property at 21/25 S. Del Puerto Avenue and reported to the Patterson City Manager that the property had a stabilized occupancy market value of \$650,000.00 and "As is" market value of \$609,000.00.

On April 16, 2012, the City Building Official performed a courtesy inspection of the 21/25 S. Del Puerto Avenue property. The building official recommended the facility be reviewed by an architect or a CASp (Certified Access Specialist program) inspector prior to the purchase. The sole purpose of this inspection was to determine the extent of improvements needed to achieve ADA (Americans with Disabilities Act) compliance. The CASp inspection was not performed prior to the close of escrow on August 14, 2012.

On April 19, 2012, the local developer that owned the property at 21/25 S. Del Puerto Avenue submitted a letter to the City Manager accepting the offer of \$650,000.00 made by the City of



Patterson. The City Council met in closed session to discuss the terms of the property purchase, as allowed by the Brown Act.

Upon review of escrow documents obtained from Stewart Title, a copy of the acceptance letter with notations was found (See Appendix A). On this letter the following notation was found. “*{Seller} to complete repairs, city to reimburse {Seller} outside of escrow.*”

On May 1, 2012, the Patterson City Council “reported out” from closed session regarding the property at 21/25 S. Del Puerto Avenue. The City Council directed the City Manager, previously appointed as the property negotiator, to enter into a purchase agreement to buy the listed property for \$650,000.00. The purpose of the building, among other things, was to house the Chamber of Commerce, Historical Society, Patterson Apricot Fiesta and promote the cultural and economic development of the city. In compliance with the Brown Act, the purchase price was publically announced. However, the City Council did not report the vote or abstention of each council member as required by the Brown Act (Gov. Code, section 54957.1 (a)).

On July 17, 2012, as part of the City Council meeting consent calendar, the City Council approved the meeting minutes for the council meetings of March 6, 2012, March 20, 2012, and April 3, 2012.

Left off the consent calendar were the meeting minutes for the council meeting of May 1, 2012, which contained information directly related to the purchase of 21/25 S. Del Puerto Avenue.

As found by the 2013-2014 SCCGJ investigation, the lack of timely approval of minutes defeats the purpose of transparency in government.

On August 6, 2012, Howard Sword, Project Manager, e-mailed the City Manager with a question concerning the 21/25 S. Del Puerto Avenue property, asking the City Manager if closing the escrow before the property improvements were made eliminated the benefits of having the Seller/Developer do the construction. Mr. Sword stated it was his understanding there was an agreement to delay closing of escrow until the improvements were in place. The change could affect costs +/- 25%. The Seller agreed to pay \$110,000.00 in repairs.

On August 7, 2012, the escrow process for the 21/25 S. Del Puerto Avenue property was opened. The escrow instructions stated that the Buyer and Seller certify that these escrow instructions were the only written agreement between them. The Buyer was purchasing the herein described property upon its personal inspection thereof and accepted said property in its “As is/Present” condition.

On August 14, 2012, escrow closed on the 21/25 S. Del Puerto Avenue property.

On September 4, 2012, the City Council approved and adopted the consent calendar which included the meeting minutes for the City Council meetings of May 1, 2012, May 15, 2012, June 5, 2012 and June 12, 2012.

On September 18, 2012, the City Manager presented an Agenda Report to the City Council. The report listed an analysis concerning the "Construction Deliver Method." The City originally intended to have the Seller construct the property's tenant improvements *as stated in the Sale and Purchase Contract*. Under that agreement the improvements would have been done at cost with no overhead, profit or general conditions. However, now that the City held title to the property, the Deputy City Attorney advised the project be publicly bid. This would directly affect the project budget because there would be overhead, profit and general conditions implications. The bidding process would also lengthen the project's schedule.

The report also indicated that the City had a very detailed cost estimate from the Seller, listing the hard construction items at \$110,000.00 for the 21/25 S. Del Puerto Avenue Property. Due to escrow closing prior to completion of the agreed upon repairs, the Seller was released of this obligation based on the advice of the Deputy City Attorney.

On October 2, 2012, the City Council held a special closed session meeting. The report from the closed session indicated the city property negotiator met with the "property owners," referring to the Seller to discuss the price and terms of payment of 21/25 S. Del Puerto Avenue.

Because escrow on this property closed on August 14, 2012, the 2014-2015 SCCGJ questions why the price and terms of the property were still being discussed.

On May 21, 2013, the City Council held a special closed session meeting. The report from this closed session meeting indicated the price and terms of payment for 21/25 S. Del Puerto Avenue were still being discussed. It should be noted that the discussion regarding the property took place approximately nine months after the close of escrow, again raising questions as to why the price and terms of payment were still being discussed.

The City of Patterson is required to comply with provisions of the California Government Code and the Public Resources Code. The government code requires that before acquiring property for specified public purposes, the Patterson Planning Commission must report to the City Council whether or not the acquisition is consistent with the City's General plan. The City Council did not consider any such report from the Planning commission. The California Environmental Quality Act (CEQA) requires the City of Patterson to consider the environmental consequences of projects that it approves or carries out. The definition of "project" is specified in Section 15378 of the California Public Resources Code (See Appendix B).

The City Attorney informed the 2014-2015 SCCGJ that the purchase of this property was not a "project" that required any documentation under CEQA. The 2014-2015 SCCGJ has reviewed the definition of "project" as set forth in the State CEQA Guidelines (California Code of Regulations, title 14, section 15378). The 2014-2015 SCCGJ believes that the purchase of the property located at 21/25 S. Del Puerto was indeed a "project" under CEQA because the whole of the action to acquire the property requires demolition and construction activity, and a new

public facility could change parking and traffic patterns, all of which has potential for resulting in a change in the environment. See attached Appendix C for complete timeline.

### **Current City of Patterson City Manager**

The current City Manager was interviewed on November 6, 2014 and was accompanied by legal counsel. The current City Manager provided the following information in summary:

At the time of the interview, the current City Manager had been in that assignment for three months. This person's prior assignment was as the City of Patterson Public Works Director. The current city manager claimed to have no personal knowledge of the purchase. A second interview was conducted on April 30, 2015. The City Manager was accompanied by legal counsel at the time of the interview. The City Manager reported contacting the prior City Manager, who negotiated the purchase, the Seller, and Stewart Title, who executed the escrow. Based on the conversation with the former City Manager, it was found that no formal purchase agreement ever existed.

The current City Manager was asked if public action was taken to authorize the purchase of the property. The City Manager indicated no awareness of any public action or council vote authorizing purchase of the property.

### **City of Patterson Mayor**

The City of Patterson Mayor was interviewed on November 13, 2014, and was accompanied by legal counsel. The Mayor concluded that although the Council thought it was a good purchase, the City 'bought a lemon.'

### **City of Patterson Finance Director**

The City of Patterson Finance Director was interviewed on November 13, 2014, and was accompanied by legal counsel at the time of the interview. The Finance Director provided the following information in summary:

The Finance Director began working for the City of Patterson in 2005 and was employed by the City as a senior accountant prior to becoming Finance Director. The Finance Director was in their current position when the 21/25 S. Del Puerto Avenue property was purchased.

The 2014-2015 SCCGJ asked the Finance Director to explain the city's process for property acquisition. The Finance Director said they did not attend, nor were they required to attend, City Council meetings, closed session meetings and/or property purchase negotiation meetings. The Finance Director had no first-hand knowledge of the property acquisition process.

The Finance Director stated that the property at 21/25 S. Del Puerto Avenue was paid for through the Capital Project Reserve Fund.

The 2014-2015 SCCGJ explained to the Finance Director that, based on documentation received from the City of Patterson, the Seller of the property agreed to provide \$110,000.00 in repairs to the property.

The Finance Director stated that they had no first-hand knowledge of that subject. The Finance Director reported, they “wrote the checks as directed by the City Manager.”

### **City of Patterson Councilmember**

A City of Patterson Councilmember was interviewed on February 11, 2015, and was not represented by legal counsel. The Councilmember was not on the City Council at the time of the purchase but had regularly attended City Council meetings since 2010, prior to being elected in November 2012. The Councilmember provided the following information in summary:

The City Council originally started looking into acquiring an additional building as a replacement for the Teen Center. Through the course of discussions, the focus of the building needs shifted from the Teen Center to a building that could accommodate the Chamber of Commerce, the Historical Archives, and Tourism Center.

As the City started reviewing buildings under consideration, the Councilmember noticed that four of the six prospective properties were owned by the same local developer. One of the buildings not owned by the developer could not actually be considered due to public occupancy requirements. The Councilmember also said there was an ADA compliant building, not owned by the aforementioned local developer, available for purchase at \$250,000.00, but it was never considered.

The 2014-2015 SCCGJ asked the Councilmember specific questions concerning the purchase agreement for the 21/25 S. Del Puerto Avenue property. The Councilmember said they had not seen a purchase agreement, there was no purchase agreement in the City of Patterson *Annex Building File*, and the Councilmember had no explanation as to why the City had not provided a copy of the sales contract to the 2014-2015 SCCGJ.

The 2014-2015 SCCGJ asked the Councilmember to describe the open session discussions, and the City Council votes concerning the 21/25 S. Del Puerto Avenue property purchase. The Councilmember could not recall any open session discussion or closed session “report out vote” specific to the property purchase.

The Councilmember added that in their opinion, the City does not appear to have exercised its due diligence or acted in a transparent fashion, in regard to the purchase of the 21/25 S. Del Puerto Avenue property.

## **The City of Patterson City Attorney**

The City of Patterson Attorney was interviewed on April 30, 2015. The City Attorney stated that no purchase agreement existed for the property transaction. The purchase of the property was described as “an arms-length real estate transaction.” To the City Attorney’s knowledge, the escrow instructions contain “terms of the deal.”

The City Attorney was asked if the city performed any environmental review prior to the purchase of the property. The City Attorney responded that no environmental review was required because this action was not a “project” requiring environmental review under CEQA.

## **FINDINGS**

- F1.** The City of Patterson City Council is in violation of the Brown Act.
- (a) The City Council did not properly notify the public as to closed session meeting content.
  - (b) In regard to closed sessions, the City Council did not consistently report actions taken nor record individual votes of councilmembers concerning this property acquisition.
- F2.** The City of Patterson demonstrated disregard for the law and did not exercise due diligence in the acquisition of the property at 21/25 S. Del Puerto Avenue.
- (a) The City of Patterson neglected to submit its plan to acquire property to the Planning Commission as required by California Government Code Section 65402 (a), and the City proceeded to acquire the property without a determination by the Planning Commission if the project was consistent with its General Plan.
  - (b) There was no CEQA documentation prepared by the City, informing the public of the environmental consequences of this purchase.
  - (c) No hazardous materials assessment was performed prior to, or during, the acquisition process despite being required for the same reason as in F2(b).
- F3.** The building purchased by the city cannot be used as intended without extensive remodeling and repair at significant cost.
- F4.** The lack of due diligence has resulted in the waste of approximately \$2,400,000.00 in public funds based upon estimates supplied by the City of Patterson.
- F5.** The City of Patterson failed to comply with the 2014-2015 SCCGJ request for the purchase agreement for the properties at 21/25 S. Del Puerto Avenue. The SCCGJ was led to believe, based upon review of City documentation and council agendas, that a purchase agreement existed.

- (a) The City of Patterson did not respond to the written request for information by the 2014-2015 SCCGJ as required by law California Penal Code 925(a).
- (b) The City of Patterson failed to fully comply in delivering all requested documents by February 17, 2015 as requested under the Freedom of Information Act in order to provide proof of the purchase agreement.
- (c) The City of Patterson failed to comply with the subpoena served on the City Manager, issued February 2, 2015, by the Stanislaus County Superior Court, concerning information related to the purchase agreement.
- (d) The Stanislaus County Superior Court issued the City Manager an Order to Show Cause, dated March 13, 2015.
- (e) The City Manager and City Attorney appeared before a Superior Court Judge on April 13, 2015, and agreed to appear before the 2014-2015 SCCGJ to testify under oath concerning the existence of a purchase agreement.

**F6.** The 2014-2015 SCCGJ is resigned to the fact that a formal purchase agreement did not exist.

## **RECOMMENDATIONS**

- R1.** The City of Patterson needs to consistently follow the Brown Act in order to ensure transparency to the public and remain compliant with the law.
- (a) Agendas for closed session meetings must be included in the open session meeting agendas and announced verbally in open session prior to adjourning to closed session. Closed session items discussed must be limited to Brown Act requirements.
  - (b) Pursuant to California Government Code Section 54957.1 (a), (element of the Brown Act), the City Council is required to publicly report any action taken in closed session and the vote or abstention on that action of every member present.
- R2.** The City of Patterson needs to comply with applicable laws concerning the acquisition of property by a public entity, including but not limited to, the California Government Code and Public Resources Code.
- (a) The City of Patterson needs to adopt and approve a written policy and check list for the acquisition of real property, assuring compliance with all applicable laws and regulations.
- R3.** None
- R4.** The City of Patterson needs to adopt and approve a written policy and check list for the acquisition of real property, assuring compliance with all applicable laws and regulations.

**R5.** The City of Patterson must cooperate with the Stanislaus County Civil Grand Jury and the Stanislaus County Superior Court in their lawful attempts to obtain public documents.

**R6.** None

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses.

City of Patterson City Council  
City of Patterson City Manager  
City of Patterson Mayor

## **DISCLAIMER**

This report is issued by the 2014-2015 SCCGJ with the exception of a jury member that volunteered to recuse himself/herself due to a perceived conflict of interest. This person was excluded from all phases of the investigation, including interviews, deliberations, voting and in the writing and approval of this report.

April 19, 2012

City of Patterson  
1 Plaza Circle  
Patterson, Ca. 95363

Dear [redacted]

I have considered the offer made by the City of Patterson for the purchase on my building located at 21, 25 S. Del Puerto Ave, Patterson Ca. 95363. I will accept the offer made of \$ 650,000.00. The building will be sold "As Is" and I would like a 90 day Escrow opened at Stewart Title in Turlock. All closing costs will be the standard split 50/50 between buyer and seller. *no transfer tax (he)*

I will still offer The City of Patterson first right of refusal on the building located at 19, 21 S. Del Puerto Ave. Patterson Ca. 95363 for 1 year from the close of escrow.

Thank you,  
[redacted]  
[redacted]

\$21,045.00

1. John to complete repairs

City to reimburse John outside of  
Escrow.

2. City to lease Building during  
the escrow period.

3. Financing - optional

4. Deposit \$10,000



From: [REDACTED]  
Date: 4/20/2012 11:07:15 AM  
To: [REDACTED]

I just spoke with [REDACTED] on the telephone and he said yes he will still do the work so that the City doesn't have to pay prevailing wage. If we have to higher a *SIC* contractor for part of the work, we will still do it so the City can pay us direct and not the contractor. So that were clear, we will do the work, and the City will pay for it. Which is what you and [REDACTED] discussed before. Just wanted to make sure I spoke to him about it and got it all cleared up for you.

Thanks [REDACTED]

[REDACTED]  
Office Manager  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Escrow 8/14/12

5/4/2012

Appendix B

Appendix B

**CEQA GUIDELINES  
KEY DEFINITIONS  
"PROJECT", "ENVIRONMENT" & "SUBSTANTIAL EVIDENCE"**

**Section 15378. Project**

(a) "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(b) Project does not include:

(1) Proposals for legislation to be enacted by the State Legislature;

(2) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above);

(3) The submittal of proposals to a vote of the people of the state or of a particular community that does not involve a public agency sponsored initiative. (Stein v. City of Santa Monica (1980) 110 Cal.App.3d 458; Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165);

(4) The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

(5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

(c) The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

(d) Where the Lead Agency could describe the project as either the adoption of a particular regulation under subdivision (a)(1) or as a development proposal which will be subject to several governmental approvals under subdivisions (a)(2) or (a)(3), the Lead Agency shall describe the project as the development proposal for the purpose of environmental analysis. This approach will implement the Lead Agency principle as described in Article 4.

Authority cited: Section 21083, Public Resources Code. Reference: Section 21065, Public Resources Code; *Kaufman and Broad-South Bay, Inc. v. Morgan Hill Unified School District* (1992) 9 Cal.App.4th 464; *Fullerton Joint Union High School District v. State Board of Education* (1982) 32 Cal.3d 779; *Simi Valley Recreation and Park District v. Local Agency Formation Commission of Ventura County* (1975) 51 Cal.App.3d 648; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

#### **Section 15360. Environment**

"Environment" means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21060.5, Public Resources Code.

Discussion: This definition combines statutory language in the first sentence with administrative interpretation in the second and third sentences.

#### **Section 15384. Substantial Evidence**

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social

or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21080, 21082.2, 21168, and 21168.5, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988..

Discussion: "Substantial evidence" as used in the Guidelines is the same as the standard of review used by courts in reviewing agency decisions. Some cases suggest that a higher standard, the so called "fair argument standard" applies when a court is reviewing an agency's decision whether or not to prepare an EIR.

Public Resources Code section 21082.2 was amended in 1993 (Chapter 1131) to provide that substantial evidence shall include "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." The statute further provides that "argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence."

### Timeline of Inspections of 21/25 S. Del Puerto

**8/9/11**

Patterson City Council first explores the idea of acquiring real property for future expansion

**10/25/11**

Sword Company retained by the City Council as project manager

**2/15/12**

Appraisal of property by Stephen R. Clark done in a standard and comprehensive fashion

**4/16/12**

Courtesy inspection by the City of Patterson inspector addresses ADA issues only. Recommends full inspection prior to purchase. Never done.

**4/19/12**

Offer from seller to sell for \$650,000 "as is". Seller claims building to be in state of good repair.

**5/1/12**

Patterson City Manager authorized to negotiate with seller as city negotiator to enter into purchase agreement for \$650,000

**8/2/12**

Report by GDR Engineering regarding parking and open space modifications to alley area for consulting fee of \$5600

**8/6/12**

Memo to city manager from Sword Company regarding completion of improvements by seller prior to close of escrow

**8/7/12**

Escrow opens

**8/14/12**

Escrow closes

**8/21/12**

City Council Agenda Report presented by city manager. Recommends contract for architectural and civil engineering evaluation. He also refers to the city general plan modified in 2010 to allow for growth of the core area of the city. Specific uses for the 21/25 S. Del Puerto property discussed including need to change from Class B to Class A occupancy. Due to known interior code deficiencies, recommends

demolition of internal improvements and new interior construction. As of this date additional costs are creeping in due to fire and seismic requirements not originally anticipated, including \$68,000 for construction documents alone. Addition of fire sprinklers will be required per the fire chief. No cost estimate for these had been done nor cost estimate for burglar alarms. Both items to be brought back for further discussion. City staff also instructed by the City Council to start recruiting for an in-house city engineer.

**9/18/12**

City Council Agenda Report. Construction Delivery Method discussed that seller was to do improvements as outlined in the sales and purchase contract. Seller had provided the city with a detailed breakdown of costs for the improvements of \$110,000. However, the city now owns the property.

Deputy City Attorney advises that the project must go to public bid, and seller is no longer responsible for the improvements. The cost figure is now estimated at \$158,000 plus \$35,000 for furniture. Off-site costs for ADA exits and alley improvements add \$120,000 to the cost.

The costs of fire sprinklers will add \$145,000. Total cost is now \$392,000 without restroom replacement or any exterior reconditioning. By adding in a 15% contingency and \$520,000 for the restroom replacement and exterior reconditioning, the total project cost is now \$1,170,000 including the purchase price of \$650,000. **Note: As of this date, there still has not been an architectural and structural engineering inspection. The city is proposing to spend this sum without knowing the condition of the basic structure.**

**10/30/12**

Hazardous material evaluation performed by BEM, Inc. Both asbestos and lead found to be present. No cost estimate was asked for or given regarding abatement.

**1/10/13**

Report to City Council by an independent structural engineer, regarding inspection performed on 12/20/12. Major structural deficiencies were discovered in the roof trusses, unreinforced masonry walls, as well as other deficiencies. **The building is deemed unsafe to occupy.**

**1/25/13**

The City Council seeks an additional opinion from a second independent structural engineer. These findings are consistent with those of the first structural engineer.

**1/30/13**

RGM Company performs a structural analysis cost estimate. Retrofitting the existing building would cost \$1,700,000 to \$2,100,000. Demolition and construction of a new structure would cost \$2,000,000 to \$2,450,000.

Appendix C

**7/2/13**

The City Council directs the City Manager to enter into bids for the demolition of 21/25 S. Del Puerto Ave.

**4/14/15**

The Civil Grand Jury can find no further activity on the property.

Part II  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-02C - Stanislaus County Public Transit  
Systems**



## 2014–2015 Stanislaus County Civil Grand Jury

# STANISLAUS COUNTY PUBLIC TRANSIT SYSTEMS

## Case 15-02C

### SUMMARY

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) received a complaint questioning the need of four independent transit authorities within Stanislaus County. The complaint prompted an investigation to inquire into the feasibility of a full or partial consolidation of the public transit authorities.

### GLOSSARY

|                               |   |
|-------------------------------|---|
| <b>BLAST</b>                  | Bus Line Service of Turlock   |
| <b>CAT</b>                    | Ceres Area Transit  |
| <b>Farebox Recovery Ratio</b> | The percentage of operating expenses funded by actual passenger fares |
| <b>FTA</b>                    | Federal Transit Administration  |
| <b>MAX</b>                    | Modesto Area Transit  |
| <b>SB 498</b>                 | Senate Bill 498 (1988)  |
| <b>SSTAC</b>                  | Social Services Transportation Advisory Council                       |
| <b>StanCOG</b>                | Stanislaus Council of Governments                                     |
| <b>StaRT</b>                  | Stanislaus Regional Transit   |
| <b>SCCGJ</b>                  | Stanislaus County Civil Grand Jury                                    |
| <b>TDA</b>                    | Transit Development Act (State of California)                         |

### BACKGROUND

Transportation services in Stanislaus County are currently operated by four different authorities: Stanislaus County (StaRT), the City of Ceres (CAT), the City of Modesto (MAX), and the City of Turlock (BLAST). Each authority operates both a fixed-route and a Dial-A-Ride service, resulting in eight different operational systems.

In 1988 California Senate Bill 498 mandated the creation of a Social Services Transportation Advisory Council (SSTAC) at the county level. The SSTAC is a standing committee within the Stanislaus Council of Governments (StanCOG). Committee membership is comprised of social service providers, transit users, senior citizens, and individuals with disabilities.

Funding for public transportation is generated by a combination of passenger fares, tax dollars from the Federal Transit Authority (FTA), State of California Transit Development Act (TDA), and advertising sales. Federal and state funds are disbursed within the county through StanCOG. All unused tax dollars at the end of each fiscal year

are returned to the TDA via StanCOG. The four different transit authorities find themselves in competition for limited funds.

## **METHODOLOGY**

The Government/Administration Committee conducted an investigation by reviewing the complaint with attached documentation and then interviewing the complainant. Other interviews were conducted with members of StanCOG and the transit managers of each of the four service providers. Review of documents included the following:

- Transportation Development Act Transit Claims Report
- Financial statements from the four transit authorities
- Farebox recovery ratio data from the four transit authorities
- Minutes from SSTAC meetings (2012-2014)
- 2012 StanCOG On-Board Transit Survey
- Stanislaus Regional Transportation Comprehensive Operations Analysis (June 2014)

## **DISCUSSION**

Upon completion of an in-depth review of the testimony and documents, the 2014-2015 SCCGJ determined that there are areas of overlap among the county's four public transit authorities. Each authority receives both FTA and TDA funds through StanCOG. All four authorities operate a fixed-route and Dial-A-Ride service.

The four transit authorities represent four separate government agencies, each having different management personnel and policies. Each authority has its own operational contracts. Among the four authorities, three different contractors are used. All four authorities outsource drivers and dispatchers, along with their mandated training and licensing. Bus maintenance varies from in house to outside vendor contracts to a combination of the two. Bus ownership varies from authority to authority with outside vendors providing a majority of the service.

Technology such as automated fare boxes, auto-announce, Wi-Fi, GPS tracking, and phone app schedules are currently unavailable on all or most buses countywide. Added technology may increase ridership.

Basic services such as fare rates, transfer rates, payment options, hours of operation, Dial-A-Ride qualifications, and website access differ among all four transit authorities. Routes and service areas overlap.

A farebox recovery ratio is the revenue generated by passenger fares. Farebox recovery ratio is computed by dividing the system's total passenger fare revenue by its total operating expenses.

Farebox recovery ratios differ among the authorities for their fixed route and Dial-A-Ride operations. The TDA establishes funding amounts based upon a 20% farebox recovery ratio threshold under most demographic profiles. While CAT, MAX, and BLAST fall under the 20% guideline, StaRT is funded at a 15% farebox recovery ratio due to its urban and **rural** demographics.

The table below has been derived from direct testimony and document review.

| Transit Authority Within County | Farebox Ratio for Fixed Route | Date of Data Collected | Farebox Ratio Deficit |
|---------------------------------|-------------------------------|------------------------|-----------------------|
| Ceres (CAT)                     | 13.68%*                       | FY 2013/2014           | -6.32%                |
| Modesto (MAX)                   | 17.00%                        | FY 2014/2015           | -3.00%                |
| Stanislaus (StaRT)              | 18.63%                        | FY 2013                | +3.63%                |
| Turlock (BLAST)                 | 15.14%                        | FY 2013                | -4.86%                |

\* Combination of both fixed route and Dial-A-Ride services.

In 2012 StanCOG conducted an On-Board Transit Survey, and in 2014 StaRT conducted a Comprehensive Operations Analysis, but both fall short of a complete consolidation analysis. Consolidation can avoid duplication of services and minimize technological implementation costs.

## FINDINGS

- F1: The four transit authorities within Stanislaus County have differing policies, contracts, operating procedures, and ridership needs. These differences have a negative impact, which is affecting ridership.
- F2: Transit authorities have previously discussed consolidation strategies, and some authorities have completed both ridership and comprehensive reports with an emphasis toward partial or total consolidation of public transit needs.
- F3: All four transit authorities are deficient in current technological services.

## RECOMMENDATIONS

- R1: The Stanislaus County Board of Supervisors should direct StanCOG to complete Request for Proposals and hire an independent professional consultant to conduct an all-inclusive consolidation of transit services study within Stanislaus County.
- R2: The consolidation study should examine all public transportation systems within the county and include a cost/benefit analysis for a complete or partial consolidation. This study should take all operational and ridership matters into consideration and make specific recommendations to both StanCOG and the Board of Supervisors that will best serve the transit authorities, users, and taxpayers.

R3: StanCOG, StaRT, BLAST, CAT, and MAX should begin inquiry into the implementation of technological advances in the areas of both transit management and rider services, such as automated fare boxes, auto-announce, Wi-Fi, GPS tracking, and phone app schedules.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the Grand Jury requests responses as follows:

- Stanislaus Council of Governments (StanCOG)
- Stanislaus County Board of Supervisors
- Stanislaus Regional Transit (StaRT)
- Modesto Area Express (MAX)
- Modesto City Council
- Ceres Area Transit (CAT)
- Ceres City Council
- Bus Line Service of Turlock (BLAST)
- Turlock City Council

Part III  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-03C - Oakdale Airport**

## **2014-2015 Stanislaus County Civil Grand Jury**

### **OAKDALE AIRPORT, CASE 15-03C**

#### **SUMMARY**

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) received a citizen's complaint regarding the management of the Oakdale Airport. The complaint cited issues extending back more than a decade. The complainant identified poor maintenance, favoritism towards the major tenant, restriction in allowing new tenants, safety, security, and not utilizing Federal Aviation Administration (FAA) funds to maintain the airport. The complainant included safety and security issues such as lighting, obsolete entrance gates, no security cameras, and inadequate perimeter fencing.

#### **BACKGROUND**

The Oakdale Airport, located east of Oakdale, California, is a public airport managed by the City of Oakdale and partially supported by funding from the State of California and the Federal Aviation Administration (FAA). Additional revenue sources are provided by leasing of airport facilities and aviation fuel sales. The airport covers 117 acres and has one runway.

#### **METHODOLOGY**

In response to the complaint, the SCCGJ conducted the following:

- Extensive tour of the airport facilities with the City Manager and Facilities Engineer
- Interview with the Oakdale City Manager
- Review of Oakdale financial records
- Review of Oakdale Grant Agreement with the FAA and applicable regulations
- Review of the FAA letter in response to the citizen's complaint
- Interview with the complainant
- Interview with the Oakdale Airport consultant
- Interview with the Oakdale Airport Ad-Hoc Committee chairman
- Discussion with tenants at Oakdale Airport

#### **DISCUSSION**

During the tour of the airport, various discussions were held with the Oakdale City Manager and Facilities Engineer concerning the condition of the airport and the steps that were being taken to address the complaints. This site visit was performed to visually determine the condition, safety, and security of the airport. During the site visit it was noted that the fencing surrounding the airport entrance was inadequate to discourage a determined intruder. The site visit included discussions with the major tenant of the airport facilities. The major tenant provided a tour of their occupied areas, some of which they had recently renovated for pilot training and technician training.

During the tour, new repairs to cracks in the asphalt paths were observed. Upon inquiry, the City Manager stated that the City had recently acquired a new machine for repairing cracks in asphalt. Use of

the machine at the airport allowed for training on the machine without impacting normal city traffic flow. Fixing the cracks early reduces the formation of potholes and benefits the airport by reducing maintenance costs.

Several attempts were made to contact the FAA to determine the status of the FAA review of the citizen's complaint. First observations by the FAA of the airport did not disclose any deficiencies, and they requested more information which the Oakdale City Manager provided. The City of Oakdale continues to apply for and receive FAA grants. The City is now in the design phase for a multi-year effort to improve airport conditions.

Cursory review of the City of Oakdale accounting records did not disclose any deficiencies. Upon request, the City of Oakdale provided a copy of the Fiscal Year 2013 Audit Report which showed no discrepancies.

Discussions with various individuals associated with the airport complimented the Oakdale City Manager for taking actions such as improving airport security, authorizing private tenants to live on the airport property for security purposes, controlling erosion, and having periodic discussions of airport operations.

## **FINDINGS**

- F1. No major maintenance issues were found with the exception of the airport entrance fence being too low.
- F2. The FAA investigation of the concerns noted in the citizen's complaint is still pending.
- F3. Oakdale's financial records did not disclose any discrepancies. Reviews of Oakdale city records were limited to fiscal years 2012 through 2014.
- F4. No indication of favoritism among tenants was noted.

## **RECOMMENDATIONS**

- R1. The SCCGJ recommends the City Manager raise the height of the fencing surrounding the airport entrance areas. Transportation Security Administration, Security Guideline for General Aviation Airports, Information Publication A-001, May 2004 states that "fencing deters casual intruders from penetrating a secured area by presenting a barrier that requires an overt action to enter". The 4 ft. fence currently in place will not provide such a barrier.
- R2. None
- R3. None
- R4. None

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the Grand Jury requests responses as follows:

- City of Oakdale City Manager
- City of Oakdale City Council

Part IV  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-04GJ - Stanislaus County Jail Facilities  
Inspection**



## 2014–2015 Stanislaus County Civil Grand Jury

# STANISLAUS COUNTY JAIL FACILITIES INSPECTION Case 15-04GJ

## SUMMARY

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) conducted its annual jail facilities inspection as required by law. The SCCGJ would like to commend the Stanislaus County Sheriff's Department for their planning and implementation of expanded facilities at the Public Safety Center site as well as the Stanislaus County Probation Department for its operation of the Juvenile Detention, Commitment Center, and Day Reporting Center.

## GLOSSARY

|  |  |
|--|--|
| <b>AB 109</b>                                    | California Assembly Bill 109 (2011) pertaining to state prison realignment regulations transferring certain inmates to county jails  |
| <b>AB 900</b>                                    | California Assembly Bill 900, supplemental to AB 109, requiring the state to reimburse local agencies for incurred facility costs to comply with AB 109                                      |
| <b>BSCC</b>                                      | Board of State and Community Corrections   |
| <b>California Code of Regulations – Title 15</b> | Covers all rules and regulations of adult and juvenile institutions, programs, and parole; the primary source of policy and procedure within both adult and juvenile correctional facilities |
| <b>California Code of Regulations – Title 24</b> | California Building Code Standards   |
| <b>Consent Decree</b>                            | A settlement that is contained in a court order; in this case a federal consent decree prescribing maximum occupancy at the Downtown Men's Jail in Modesto                                   |
| <b>DRC</b>                                       | Day Reporting Center (Stanislaus County Probation Department)  |
| <b>PSC</b>                                       | Public Safety Center   |
| <b>Recidivism</b>                                | Habitual relapse into crime  |
| <b>SCCGJ</b>                                     | Stanislaus County Civil Grand Jury   |

## BACKGROUND

California Penal Code Section 919 (b) mandates all grand juries inquire into the condition and management of the public prisons within the county. The SCCGJ Criminal Justice Committee was responsible for the inspections and report preparation.

## **METHODOLOGY**

Members of the SCCGJ conducted site inspections at the following facilities:

- Downtown Men's Jail at 1115 H Street, Modesto
- Public Safety Center (Units 1 & 2) at 200 E. Hackett Road, Ceres
- Stanislaus County Probation Department's Juvenile Hall and newly commissioned Commitment Center at 2215 Blue Gum Avenue, Modesto
- Day Reporting Center at 801 11<sup>th</sup> Street, Modesto
- Modesto Police Department at 600 10<sup>th</sup> Street, Modesto
- Regional 911 Center at 3705 Oakdale Road, Modesto

In addition to the site inspections, members of the SCCGJ participated in ride-alongs with the Modesto Police Department and the Stanislaus County Sheriff's Department. Jurors also sat in at the Regional 911 Center to observe the operations of the emergency dispatch services provided to the community of Stanislaus County.

All site tours were conducted with the guidance of supervisory and command staff officers. Inspections focused on compliance with Title 15 and Title 24 of the California Code of Regulations, with particular attention to the safety cells. The Criminal Justice Committee interviewed a variety of personnel including custodial supervisors, shift commanders, and jail staff. The committee reviewed applicable policies and regulations for the jail facilities. Previous Stanislaus County Civil Grand Jury jail inspection reports were reviewed.

## **DOWNTOWN MEN'S JAIL**

### **DISCUSSION**

The Downtown Men's Jail (downtown jail) opened in 1952 and currently has a maximum capacity of 396 inmates. A federal consent decree, established after a court ruling concerning occupancy limits, is still in effect at this facility only. Inmate numbers change hourly, and at the time of our inspection, the jail was below maximum occupancy.

The SCCGJ found that though well managed and reasonably well maintained, the downtown jail is obsolete. The SCCGJ concurs with the Stanislaus County Board of Supervisors' 1988 finding, as outlined in the AB 109/Prop 47 report, that the development of the Public Safety Center (PSC) would ultimately allow the County to close the downtown jail.

The downtown jail has safety cells that are designed to temporarily hold inmates who are actively violent or in immediate danger to themselves or others. Video cameras are located in these cells, but no recordings are made.

The State of California is currently designing plans for a new Stanislaus County Superior Court building with an anticipated completion date in 2019. It is uncertain at this time what role the downtown jail will have when the new courthouse is operational. The Board of State and Community Corrections (BSCC) last inspected the downtown jail on November 7 and 8, 2013. The next BSCC inspection is expected later in 2015.

## **FINDINGS**

- F1: The downtown jail is obsolete.
- F2: The downtown jail has an allotted number of safety cells used as temporary placement for inmates who are actively violent or in immediate danger to themselves or others.
- F3: The downtown jail has video-monitoring systems in place.
- F4: Although each safety cell at the downtown jail has a functional video camera, they are observational only and not recorded onto any type of media.

## **RECOMMENDATIONS**

- R1: The County should close the downtown jail once the PSC Unit 2 and the New Modesto Courthouse become fully operational.
- R2: None
- R3: None
- R4: Convert all existing safety cell cameras to record 24/7 onto media storage in an effort to mitigate claims of negligence or abuse at these high-risk locations.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses from:

- Stanislaus County Sheriff
- Stanislaus County Board of Supervisors

## **PUBLIC SAFETY CENTER (PSC) UNITS 1 AND 2**

### **DISCUSSION**

Originally opened in 1992, the PSC has gone through improvements and continued growth. Most of the expansion was financed through monies received from AB 900 and the insurance settlement for the fire at the now closed Honor Farm.

In contrast with the downtown jail, the PSC represents a more modern design incorporating advances in technology and safety benefits for both inmates and staff.

At the time of the inspection, some tiers were closed due to staffing issues, but the County has agreed to continuous recruiting in an effort to fill vacancies from the prior cuts to the Sheriff's Department.

The PSC also has safety cells that are designed to temporarily hold inmates who are actively violent or an immediate danger to themselves or others. Video cameras are located in these cells, but no recordings are made.

The SCCGJ found the facilities at the PSC to be very clean and well maintained. The BSCC last inspected the PSC on November 7 and 8, 2013. The next inspection is expected later in 2015.

### **FINDINGS**

- F5: The PSC has an allotted number of safety cells used as temporary placement for inmates who are actively violent or in immediate danger to themselves or others.
- F6: The PSC has video-monitoring systems in place.
- F7: Although each safety cell at the PSC has a functional video camera, they are observational only and not recorded onto any type of media.

### **RECOMMENDATIONS**

- R5: None
- R6: None
- R7: Convert all existing safety cell cameras to record 24/7 onto media storage in an effort to mitigate claims of negligence or abuse at these high-risk locations.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses from:

- Stanislaus County Sheriff
- Stanislaus County Board of Supervisors

## **JUVENILE HALL AND COMMITMENT CENTER**

### **DISCUSSION**

The Probation Department has a state-of-the-art facility located on Blue Gum Avenue, Modesto. Juvenile Hall is designed for pre-adjudicated minors while the Commitment Center houses post-adjudicated minors. Emphasis is placed on corrective behaviors.

One of the goals of this institution is to prevent/reduce recidivism rates by focusing on continuing education, vocational opportunities, and life skills training to maximize the potential for successful transition back into the community.

The SCCGJ found the facilities at Juvenile Hall and the Commitment Center to be very clean and well maintained. The last BSCC inspection at this facility was completed on January 14 and 15, 2013; and they are due for another inspection in 2015.

### **FINDINGS**

F8: None

### **RECOMMENDATIONS**

R8: None

### **REQUEST FOR RESPONSES**

None required.

## **DAY REPORTING CENTER**

### **DISCUSSION**

The Stanislaus County Probation Department operates a Day Reporting Center (DRC) within the building originally designated as Modesto City Hall, located at 801 11<sup>th</sup> Street, Modesto.

The DRC is a “one-stop shop” for those offenders under the jurisdiction of the Probation Department that are required to obtain services as part of their probation. The services include preparation for GED testing, employment leads, transportation passes, anger management, and drug/alcohol counseling. The purpose of the DRC is to provide a centralized location where a variety of rehabilitative services are offered in an effort to reduce the likelihood of recidivism.

Members of the SCCGJ visited the DRC and were given a tour of the facility by Probation Department staff. Jurors also met with participants of a drug and alcohol recovery class. The Probation staff that assisted the jurors were courteous, professional, and informative. The participants in the alcohol addiction class were very positive and enthusiastic about their chances of recovery.

The SCCGJ found the DRC to be well organized and well maintained. A new DRC is under construction at the PSC site and is expected to be completed in August of 2015.

## **FINDINGS**

- F9: The DRC is a useful and important facility, which provides the Probation Department with a centralized location for the variety of services needed or required by those on probation.
- F10: The DRC has become more important due to the additional persons placed into local post-release community supervision due to AB 109.

## **RECOMMENDATIONS**

R9: None

R10: None

## **REQUEST FOR RESPONSES**

None required.

## **MODESTO POLICE DEPARTMENT**

### **DISCUSSION**

The Modesto Police Department has headquarters located in downtown Modesto. The temporary detention facility located within the building meets Title 15 and Title 24 mandates. The detention cells are designed and used for the purposes of short-term confinement such as completing booking sheets, processing warrants, and awaiting interviews by detectives.

## **FINDINGS**

F11: None

## **RECOMMENDATIONS**

R11: None

## **REQUEST FOR RESPONSES**

None required.

## **REGIONAL 911 CENTER**

### **DISCUSSION**

Stanislaus Regional 911 was formed through a Joint Powers Agreement (JPA) between Stanislaus County and the City of Modesto and is administered by a commission of representatives from each contracted public safety agency.

The Regional 911 Center provides 24/7 services for public safety emergency dispatch. Additionally, Regional 911 is the final destination for incoming 911 telephone calls. Call-taking and dispatching services are provided to 22 law enforcement and fire agencies within Stanislaus County. AB 109 has resulted in the increased caseload for the Probation Department, requiring a dedicated channel in the Regional 911 Center.

Although staff retention is high and there is very little turnover in the center, the County has implemented a continuous recruiting scheme for hiring qualified personnel. Many workstations in the center were unmanned during our observations, and dispatchers did a systematic job of prioritizing calls and sending the appropriate resources to calls for service.

Two independent consultant studies have provided reports about the 911 Center recently, and a new director was named in February of 2015.

SCCGJ members sat in the communication center on various shifts to observe and learn about the process. Call-takers and dispatchers work collaboratively within the room to forward critical information and ensure the safety of affected emergency personnel. State-of-the-art equipment was evident, but staff members commented that the current software for the Computer Aided Dispatch system (CAD) was over a decade old and outdated.

Members of the SCCGJ who sat inside the center for a shift left with positive impressions of the employees, the process and the efficiency of the organization. The employees of

the center are dedicated and highly trained professionals who serve the community with little or no recognition.

## **FINDINGS**

- F12: Staff comments indicated CAD software is outdated.
- F13: Regional 911 implements continuous recruitment to fill vacated and budgeted positions.
- F14: Employees of the Regional 911 Center are highly trained and dedicated to providing public service to the community of Stanislaus County.

## **RECOMMENDATIONS**

- R12: The Regional 911 Director should take steps to update the CAD system.
- R13: None
- R14: None

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses from:

- Stanislaus County Regional 911 Director
- Modesto Police Chief
- Modesto City Council
- Stanislaus County Sheriff
- Stanislaus County Board of Supervisors



Part V  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-05C - East Side Mosquito  
Abatement District**

## **2014-2015 Stanislaus County Civil Grand Jury**

### **Case 15-05C**

## **EAST SIDE MOSQUITO ABATEMENT DISTRICT**

### **SUMMARY**

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) received a complaint concerning working conditions at the East Side Mosquito Abatement District (ESMAD) citing numerous examples of both poor management and outdated human resources practices. The full panel of the SCCGJ reviewed and accepted the complaint.

Following an investigation that included a review of documents provided by the District, interviews with County officials, District employees and Board members, and a tour of ESMAD offices, the SCCGJ found that while some allegations were unsubstantiated, there are widespread human resources and management problems within the District. The SCCGJ believes the problems are significant and pervasive enough to require wholesale examination by outside experts to recommend corrective actions.

While investigating ESMAD, the SCCGJ looked at the Turlock Mosquito Abatement District as a basis of comparison with ESMAD. The panel found that there may be significant advantages in consolidating the two districts.

### **GLOSSARY**

|              |                                       |
|--------------|---------------------------------------|
| <b>ESMAD</b> | East Side Mosquito Abatement District |
| <b>HR</b>    | Human Resources                       |
| <b>LAFCO</b> | Local Agency Formation Commission     |
| <b>SCCGJ</b> | Stanislaus County Civil Grand Jury    |
| <b>TMAD</b>  | Turlock Mosquito Abatement District   |

### **BACKGROUND**

East Side Mosquito Abatement District was founded in 1939, and is overseen by a Board of Directors appointed by the County Board of Supervisors. The District currently has eighteen employees (nine seasonal) who cover over 540 square miles, in the northern portion of Stanislaus County. The communities within the District include Modesto, Empire, Waterford, Knights Ferry, Valley Home, Oakdale, Riverbank, and Salida. ESMAD, being a non-enterprise, independent Special District with a yearly budget of approximately \$2,000,000.00 was formed from the need to control the mosquito population in Stanislaus County and is funded through property taxes.

## **METHODOLOGY**

The investigation included interviews with:

- District manager
- Full-time and seasonal technicians
- Biologist
- Foreman
- Board members
- Stanislaus County Public Health Officer.

Members of The SCCGJ attended a board meeting, consulted with the Stanislaus County Auditor, and conducted a site visit after the seasonal workers returned to work. For comparative purposes, a tour of the Turlock Mosquito Abatement District (TMAD) was also conducted and our observations were used to evaluate operations of ESMAD.

Requests were made for Board minutes, technician logs, staffing and pay scale information, job descriptions, budgetary information, and preliminary audit reports. ESMAD was very accommodating in providing the requested information.

## **DISCUSSION**

During the course of the investigation, some issues were discovered that were not listed in the original complaint. The SCCGJ concluded these items were significant enough to be included in the findings and recommendations. During the interviews, it became apparent that there were two perspectives of the working conditions in the District. The Board members and management conveyed one viewpoint, while the supervised seasonal and year round employees presented another. The lack of oversight by the Board, and the intimidation the employees feel in dealing with the foreman, have both contributed to the situation. The two Board members interviewed gave the SCCGJ the impression that the Board takes a “hands off” approach and allows the Manager great latitude in the day to day operation of the District. The Board members also expressed they were generally satisfied with how the District is being managed, and they did not see the need to make any changes to the current operations. However, according to the County Health Officer, the job of mosquito abatement is an ever-changing one and requires adapting to the current conditions and having the ability to evolve as needed, particularly given the challenges presented by the West Nile virus and changing climate. As a comparison, TMAD has a larger year-round staff and is more forward thinking and proactive in their abatement methods. For an example, TMAD concentrates on treating with larvicide early in the mosquito life cycle whereas ESMAD utilizes more adulticide spraying. The review of ESMAD’s budget shows they are fiscally conservative with a \$5,000,000.00 reserve. Expanding the year round staff would allow a more proactive approach toward mosquito abatement without significant cost increase.

## **Complaints**

- C1. Poor management
- C2. Foreman difficult to approach and makes subordinates and co-workers feel intimidated
- C3. Path to year round employment not communicated to seasonal employees
- C4. Personal use of district equipment
- C5. Board members have exceeded their term limits and provide no oversight

## **FINDINGS**

- F1. The current management practices at ESMAD are in need of evaluation and review by an outside entity. Clearly, problems do exist and need to be addressed. The concerns and issues raised in the complaint are ones that should be handled within the District, by allowing employees to communicate their issues. Employees are entitled to a work environment free of intimidation, malice, and discrimination of any kind. Subordinates should be able to air their grievances to management without fear of retribution. Information conveyed to the SCCGJ by the employees about management, was consistent with items listed in the original complaint.
- F2. The District's current HR system is outdated and does not appear to be adequate. For example, a blank employee annual review form was provided on request, but the interviewed employees were unaware of the existence of the document. The District Policies and Procedures handbook is in need of updating. The policy on filing an employee grievance provided was last updated in the late 1980's and still referenced union representation; however, the employees have not been part of a union in years.
- F3. The Board members are appointed by the County Board of Supervisors to a three year term, with a two term limit. The current tenure of the Board is an average of 20 years.
- F4. The observations of the SCCGJ during our investigation indicate differing views from each of the Districts, one is more preemptive, and the other is more reactive in their approach the control of the mosquito population. Merging the two Districts would utilize the strengths of each and streamline operations.

## **RECOMMENDATIONS**

- R1. An audit of ESMAD's management practices by an outside firm to identify deficiencies and corrective actions needed. All employees should attend ethics and diversity training administered by a third party. Both the District Manager and Foreman would benefit from

further training in regards to supervision and management of employees. The change needs to happen from the top down.

- R2. An audit of ESMAD's HR procedures by an outside firm specializing in HR management practices to identify deficiencies and suggest corrective actions needed.
- R3. The ESMAD needs a Board that is more involved in the oversight of the District. The Stanislaus County Board of Supervisors should expand public awareness of ESMAD Board vacancies to increase interest in Board membership.
- R4. The Stanislaus County Board of Supervisors should prepare a study to examine the feasibility of consolidating the ESMAD and TMAD by LAFCO.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code section 933.05, the SCCGJ requests responses.

From the following individuals:

- ESMAD Manager
- ESMAD Board of Directors

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors

## **INVITED RESPONSES**

Executive Director of LAFCO

Part VI  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-16GJ - Local Effects of Prison  
Realignment (AB 109) and  
Proposition 47**

## 2014-2015 Stanislaus County Civil Grand Jury

### **LOCAL EFFECTS OF PRISON REALIGNMENT (AB 109) AND PROPOSITION 47, CASE 15-16GJ**

#### **SUMMARY**

The 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) initiated an investigation into the effects of Assembly Bill 109 (AB 109), commonly referred to as “prison realignment,” on the local criminal justice system. AB 109, passed in 2011, shifts the responsibility for the incarceration, treatment, monitoring, and supervision of certain low level offenders from the State to the counties. AB 109 was drafted with extensive participation from a variety of agencies and interest groups, did not affect felons currently in state prison, and did not become effective until funding was put into place to support its implementation.

During the SCCGJ investigation of AB 109, Proposition 47 was passed. Unlike AB 109, Prop 47 became effective immediately and reclassified certain crimes from felonies to misdemeanors. Prop 47 also allowed offenders convicted of those felonies to have their convictions reclassified and to be released from custody. The SCCGJ decided to expand its investigation to attempt to identify the early impacts and consequences of the passage of Prop 47.

While conducting the inspection of the Public Safety Center required by California Penal Code Section 919 (b), the SCCGJ was impressed by the amount of construction occurring, particularly that which was a direct result of realignment. The SCCGJ decided to investigate the planning and development history of the Public Safety Center. In the course of its inspection of the Downtown Men’s Jail, its tours of the Modesto Police Department and Probation Department Day Reporting Center, meetings at the District Attorney’s and Public Defender’s offices, the SCCGJ became interested in the future of the downtown men’s jail/courthouse block once the State of California’s New Modesto Courthouse is completed, and so the SCCGJ decided to look into the matter.

From this investigation, the SCCGJ has found that the Stanislaus County Sheriff’s Department and Probation Department are the most directly affected by AB 109, though other County departments have been affected as well. The multi-agency Community Corrections Partnership (CCP), chaired by the Chief Probation Officer (CPO) has developed a thoughtful and phased approach for the implementation of AB 109. The County, through its long-term planning, has been successful in meeting its facility needs for AB 109. The SCCGJ found that the passage of Prop 47 has resulted in unintended consequences that are presenting challenges to the County’s criminal justice agencies both now and in the future.

The SCCGJ also finds it important to recognize the efforts of the past and current Chief Probation Officers and the Sheriff in shaping AB 109 as it was drafted and in its formative stages to maximize its chances for successful implementation. The Sheriff’s efforts should also be recognized as instrumental in securing Assembly Bill 900 (AB 900) Phase II and SB 1022 funding for the Public Safety Center (PSC) as well as the efforts of the Chief Operations Officer of the County Executive Office resulting in extremely successful project management and funding in the development of the Public Safety Center. Their foresight made the Stanislaus County PSC the first project in the state to receive funding and the County’s new Day Reporting Center the first of its kind in the state.

## GLOSSARY

|                            |   |
|----------------------------|---|
| <b>AB 109</b>              | Assembly Bill 109   |
| <b>AB 117</b>              | Assembly Bill 117   |
| <b>AB 900</b>              | Assembly Bill 900. Authorized \$7B in bond funding for state prisons and local jail facilities  |
| <b>BHRS</b>                | Behavioral Health and Recovery Services   |
| <b>BOS</b>                 | Stanislaus County Board of Supervisors  |
| <b>BSCC</b>                | Board of State and Community Corrections  |
| <b>CEO</b>                 | County Executive Office   |
| <b>CEQA</b>                | California Environmental Quality Act  |
| <b>CCP</b>                 | Community Corrections Partnership   |
| <b>COP</b>                 | Community-oriented policing: a philosophy that combines traditional aspects of law enforcement with prevention measures, problem solving, community engagement, and community partnerships  |
| <b>CPO</b>                 | Chief Probation Officer   |
| <b>CSAC</b>                | County Supervisors Association  |
| <b>DA</b>                  | District Attorney   |
| <b>Flash incarceration</b> | A period of detention in county jail due to a violation of an offender's conditions of post-release supervision   |
| <b>House arrest</b>        | Confinement of a criminal to his or her own residence, usually under electronic monitoring or other surveillance, imposed by a court as a more lenient alternative to imprisonment  |
| <b>IFT</b>                 | Integrated Forensics Team   |
| <b>PC § 1170 (h)</b>       | California Penal Code section implementing provisions of AB 109 mandating county incarceration vs. state prison for certain felons  |
| <b>PD</b>                  | Public Defender   |
| <b>POP</b>                 | Problem-oriented policing: a policing strategy that involves the identification and analysis of specific crime and disorder problems in order to develop effective response strategies; for example, gang unit or street crime unit |
| <b>PRCS</b>                | Post release community supervision  |
| <b>Prop 47</b>             | Proposition 47 (2014)   |
| <b>PSC</b>                 | Public Safety Center  |
| <b>Recidivism</b>          | Habitual relapse into crime   |
| <b>SB 1022</b>             | Senate Bill 1022 providing funding for specified adult criminal justice facilities  |
| <b>Split sentence</b>      | When a convicted felon is ordered to mandatory supervision by probation after a specified jail term   |
| <b>Triple Non</b>          | A crime that is non-serious, non-violent, or a non-registered sex offender  |

## METHODOLOGY

In conducting their investigation, members of the SCCGJ Criminal Justice Committee interviewed the following individuals:

- Stanislaus County Sheriff
- Stanislaus County Chief Probation Officer
- Police Chiefs of Modesto, Turlock, Ceres, and Oakdale



- Stanislaus County District Attorney
- Stanislaus County Public Defender
- Stanislaus County Chief Operations Officer

Members of the SCCGJ and the Criminal Justice Committee also gained insight through interaction with law enforcement personnel during their site inspections of the Public Safety Center, Modesto Downtown Men's Jail, and the County Probation Department's Juvenile Hall Facility. Members of the SCCGJ also toured the Modesto Police Department and the Probation Department's current Day Reporting Center and participated in Regional 911 sit-alongs and Police and Sheriff Department ride-alongs. (For further details concerning facilities inspections, please refer to report 15-04GJ.) Committee members also attended Community Corrections Partnership meetings and sat in on Superior Court arraignment and court calendars to view the impacts of Prop 47.

During their investigation, members of the Criminal Justice Committee reviewed documents and correspondence containing the following information:

- Chronology and master planning process for the Public Safety Center (PSC)
- Changes to the PSC as a result of AB 109
- Costs of capital facilities constructed as a result of AB 109
- State funding to assist in the construction of capital facilities as a result of AB 109
- Population statistics at the PSC, Downtown Men's Jail, Juvenile Hall and Commitment Center
- Number of individuals released from state custody to county custody and probation supervision as a result of AB 109
- Cost of supervision of individuals released from state custody to county custody and probation as a result of AB 109
- State funding to assist in in the supervision of individuals released from state custody to county custody and probation as a result of AB 109
- Available crime statistics as a result of AB 109

This report has been broken down into four sections: AB 109, Prop 47, the Planning and Development of the Public Safety Center, and the New Modesto Courthouse. Each section contains its own discussion, findings, recommendations, and requests for response. The findings and recommendations have been numbered sequentially.

## **CALIFORNIA ASSEMBLY BILL 109**

### **BACKGROUND**

In 2011 a panel of three (3) federal judges, ratified by the Supreme Court, ordered the State of California to reduce the population in its prisons to 137% of their designed capacity within two years. Based on the prison capacity at the time of the order, this meant that the State had to reduce the population in its 33 prisons from 150,000 inmates to 110,000 inmates.

In 2011, to reduce the state's prison population, Governor Jerry Brown signed Assembly Bill 109 (AB 109), commonly referred to as "prison realignment," which shifted to the counties the responsibility for monitoring, tracking, and incarcerating lower-level offenders previously bound for state prison. Essentially, AB 109 (and AB 117, a companion bill) altered both sentencing and post-prison supervision for the newly statutorily classified "non-serious, non-violent, non-sex" offenders. These offenders became a county responsibility.

AB 109 would not become operative until it was funded. The state funding to implement AB 109 was established by Assembly Bill 118 (AB 118) and Senate Bill 89 (SB 89). These bills dedicated a portion of the state sales tax and motor vehicle license fees to a Local Revenue Fund to be distributed to counties to pay for the implementation of AB 109.

Governor Brown required that the counties divide the state funding among themselves, so a realignment committee was created through the County Supervisors Association (CSAC) to develop a format to distribute these funds. A temporary formula was adopted for the first partial year 2011-2012 allocation. This formula considered several factors, such as population and estimated workload. In the first year Stanislaus County received about \$6.8 million or about 1.70% of the statewide allocation. In the subsequent fiscal year (2012-2013) Stanislaus County's percentage of the state allocation dropped to 1.45%. This percentage reduction was shared by many rural counties as the adjusted formula shifted more money to suburban and urban counties. CSAC has stated that its goal is to develop a hybrid formula which considers factors such as population and workload but also provides incentives to successfully implement AB 109. Under this latest recommended formula, Stanislaus County would receive 1.67% of the total statewide allocation.

## **DISCUSSION**

As a result of AB 109, about 25% of the county's jail population (either housed at PSC or the downtown jail) are "realigned" inmates serving their sentences locally versus state prison. There have been a total of 1,479 felons incarcerated locally as of May 1, 2015, rather than in state prison. Of those, 81% (1,203) will have a "split sentence" requiring mandatory probation upon release from jail. Historically, inmates served no more than one year in a county jail or were transferred to state prison. With the implementation of AB 109, it is not uncommon to have inmates who should be serving prison sentences retained in county jail for many years. Since AB 109's passing, 2,034 individuals have been or are now being supervised by County Probation under Post Release Community Supervision (PRCS). Besides Sheriff and Probation, other county departments have also been affected, notably Behavioral Health and Recovery Services (BHRS) as part of the Integrated Forensics Team (IFT) which has been greatly expanded to provide services to the additional probation caseload. The County Executive Office (CEO) has also taken on additional workload as a result of AB 109.

Both the Public Defender (PD) and District Attorney (DA) have experienced some increase in workload due to realignment. Much of this increased workload is a result of the activities of the Probation and the Regional Apprehension Task Force and new law violations by realigned offenders. AB 118 created the DA/PD account to address costs associated with revocation proceedings involving persons subject to state parole and post release community supervision (PRCS). The CCP has also awarded funds to the PD and DA to assist these departments in AB 109-related cases.

AB 109 has increased use of the Probation Department's Day Reporting Center and has created a need for an increase in local mental and behavioral health services. AB 109 has also demanded a closer

relationship between the Probation and Sheriff's departments and community-based organizations such as the Modesto Gospel Mission, Friends Outside, Nirvana Drug and Alcohol Institute, and El Concilio.

The effects of AB 109 to the municipal police agencies within the county are not clearly apparent, at least in the short term. The City of Modesto Police Chief provided data to the SCCGJ that suggested there may be a slight increase in the number of Part 1 crimes in Modesto since AB 109 passed, but the change is not significant enough to be attributed to AB 109 given other factors that affect crime statistics. Part 1 crimes include two categories: violent and property crimes. Aggravated assault, forcible rape, murder, and robbery are classified as violent while arson, burglary, larceny-theft, and motor vehicle theft are classified as property crimes.

One concern voiced by the police chiefs is that the additional inmates being locally incarcerated as opposed to state prison will attract friends and relatives to the area that have also been arrested and convicted of a crime. The chiefs also expressed concern that the increased number of persons on PRCS will result in an increase in local property crimes, particularly lower value property crimes. All of the police chiefs interviewed expressed concern with any impacts AB 109 would have due to the fact that all had suffered budget cuts in recent years resulting in the reduction or outright elimination of community policing services. Reduced funding for local municipalities forces the elimination of specialized units which allow the patrol function to keep pace with the increased level of calls for service. Dedicated entities such as street crimes, school resource officers, traffic, drug, and gang units have been eliminated to augment minimum staffing levels for basic patrol services. The impact to the local community results in increased reactive policing rather than focused proactive policing.

### **Implementation of AB 109 through the Community Corrections Partnership**

AB 109 requires that each county implement prison realignment through its Community Corrections Partnership (CCP). The California Penal Code requires that each county's CCP be chaired by the Chief Probation Officer and consist of the following:

1. The Presiding Judge of the Superior Court, or his or her designee
2. A County Supervisor or the Chief Administrative Officer for the County or a designee of the Board of Supervisors
3. The District Attorney
4. The Public Defender
5. The Sheriff
6. A Chief of Police
7. The head of the County Department of Social Services
8. The head of the County Department of Mental Health
9. The head of the County Department of Employment
10. The head of the County alcohol and substance abuse programs
11. The head of the County Office of Education
12. A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense
13. An individual who represents the interests of victims

The Stanislaus County CCP meets monthly at the Probation Department's training room located at 2215 Blue Gum Avenue. The Probation Department provides general staff support to the CCP. The meetings are open to the public, and the agendas are posted on the County website. At the meetings attended by members of the SCCGJ, however, there were few if any members of the general public in attendance. The training room where the meetings are held is a portable building and is generally adequate for the purposes of the CCP but would be difficult to accommodate a meeting should a large group of the general public wish to attend. The CCP meetings that members of the SCCGJ attended were chaired by the CPO, and attendance was generally good with a positive, open, and professional attitude among the participants. Given the key role that the CCP plays in coordinating the County's AB 109 implementation plan, the SCCGJ believes greater public participation should be encouraged.

The Executive Committee of the Stanislaus CCP is comprised of the Chief Probation Officer, the Sheriff, the District Attorney, the Public Defender, the Presiding Judge of the Superior Court, and the Modesto Chief of Police. AB 117, a technical follow-up bill to AB 109, specifies that the CCP Executive Committee recommend a local plan to the Board of Supervisors (BOS) in response to AB 109. In essence, the CCP Executive Committee is responsible to develop the county's implementation strategy for AB 109.

In September of 2011 the BOS approved the implementation plan unanimously recommended by the CCP Executive Committee. Because of the many questions and uncertainties that surrounded AB 109 at the time, the implementation plan proposed a phased approach. Since this initial approval there have been four phases approved for AB 109 implementation.

Phase I, covering the period from October 2011 to June 20, 2012, devoted the approximately \$6.2 million allocated by the State to the County to Sheriff and Probation services. Jail capacity at the PSC was increased by reopening facilities. The jail alternatives program was expanded. Also expanded was the support for post release community supervision services, the Day Reporting Center, the Integrated Forensics Team, and the Regional Apprehension Task Force.

Phase II, covering the 2012-2013 fiscal year, applied a budget of about \$13.3 million to continue all the Phase I programs; increase capacity at the Grayson Road Honor Farm; a contract for medical services for those in custody; additional mental health, behavioral health, and recovery services; expanded services at the Day Reporting Center; and the addition of a crime analyst.

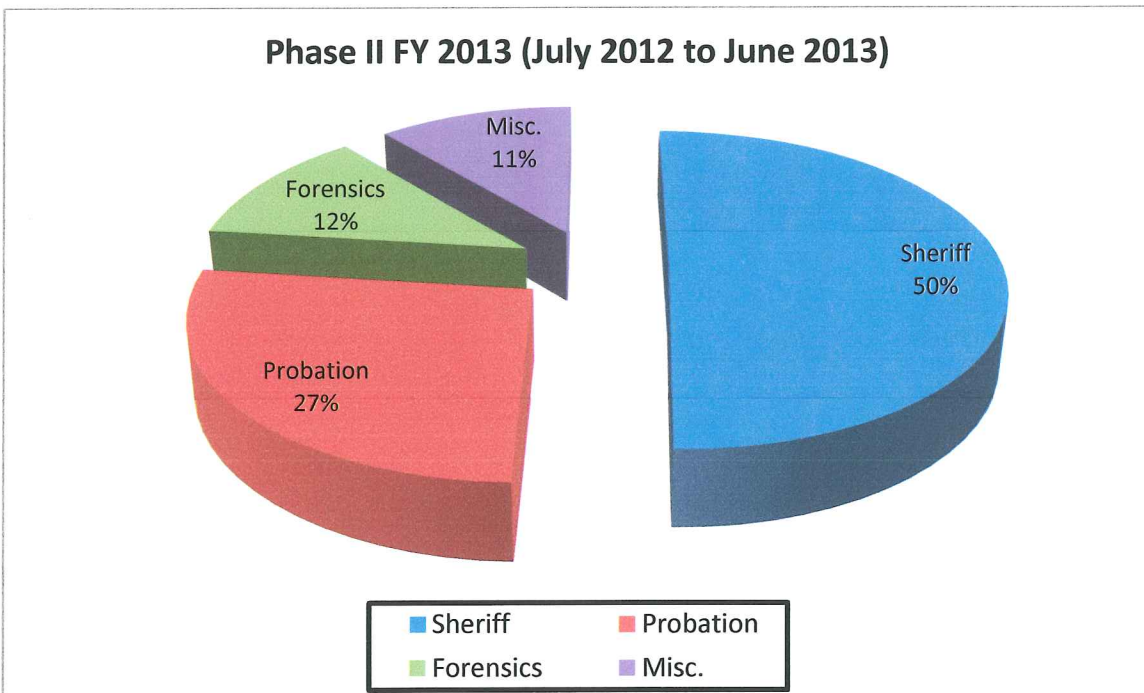
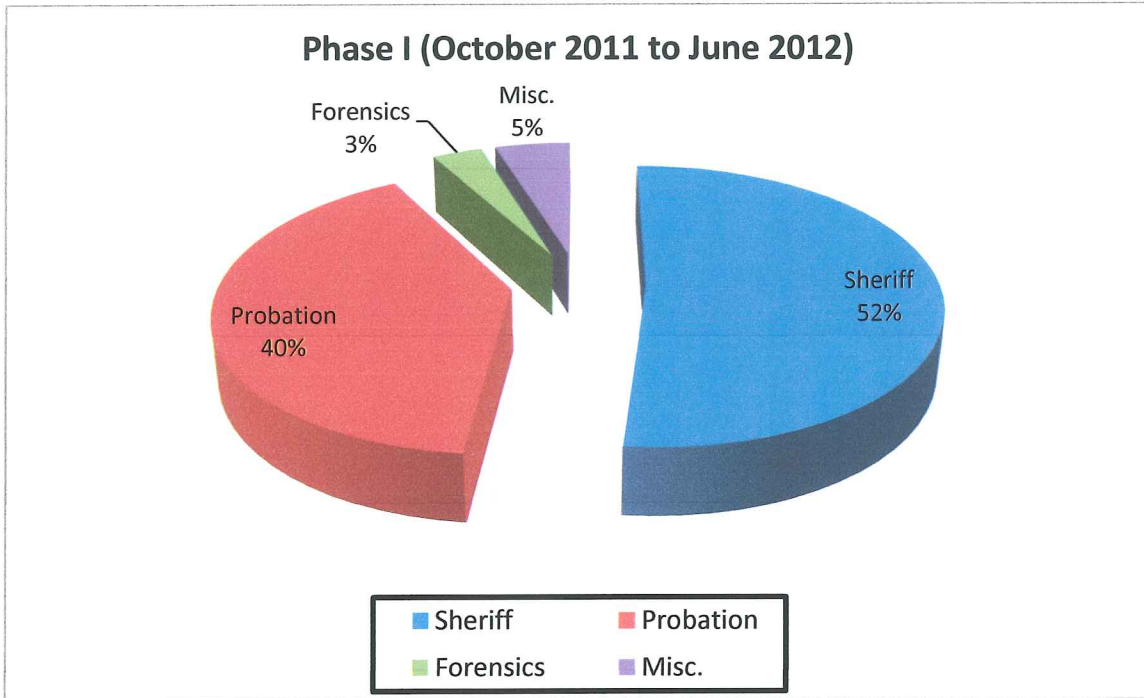
Phase III, covering the 2013-2014 fiscal year, and with a budget of over \$18.7 million, continued all the Phase I and II programs and added a \$3 million allocation for staffing at the PSC for the AB 900 Phase II expansion, DA and PD support, additional staffing at the Regional 911 Center for probation services, and grants to community-based organizations providing services to the realigned population.

Phase IV of the CCP's AB 109 implementation plan for the 2014-2015 fiscal year allocates a budget of about \$16.2 million. Phase IV continues all the programs of Phase III with the exception of the Second Chances federal grant program which the CCP found ineffective. Phase IV provides for a restoration of the recent countywide 5% salary reduction. There is also about \$1 million set aside for additional staffing for the AB 900 Phase II expansion at the Public Safety Center.

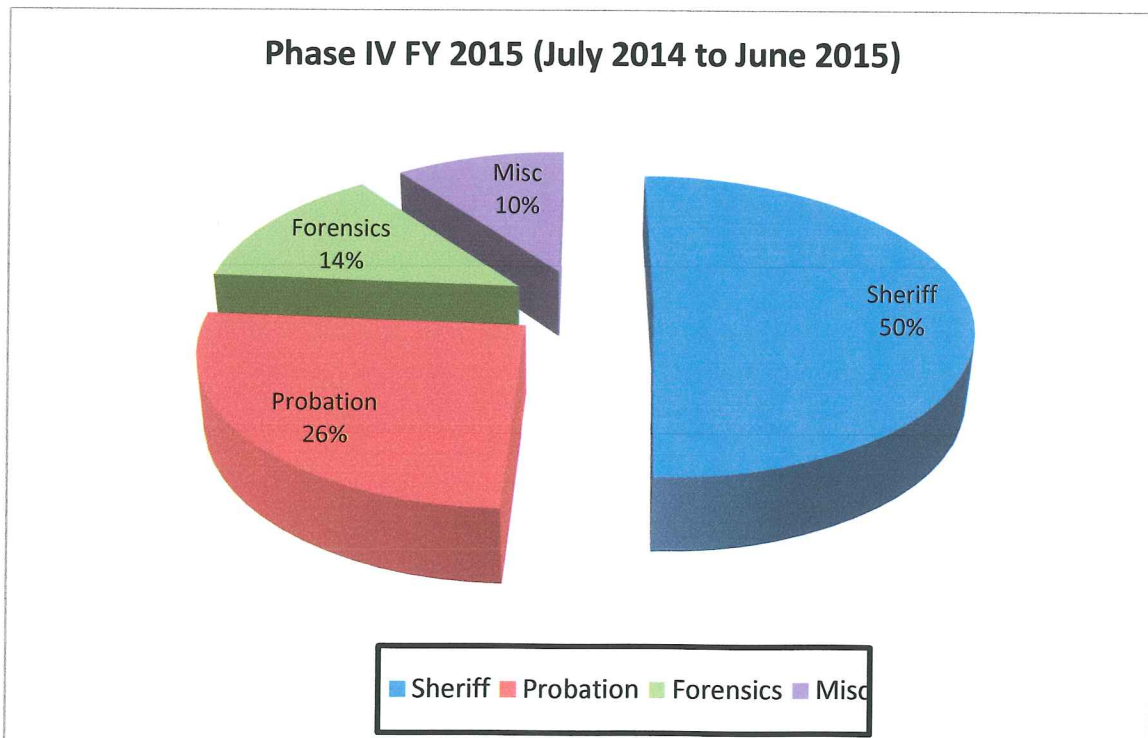
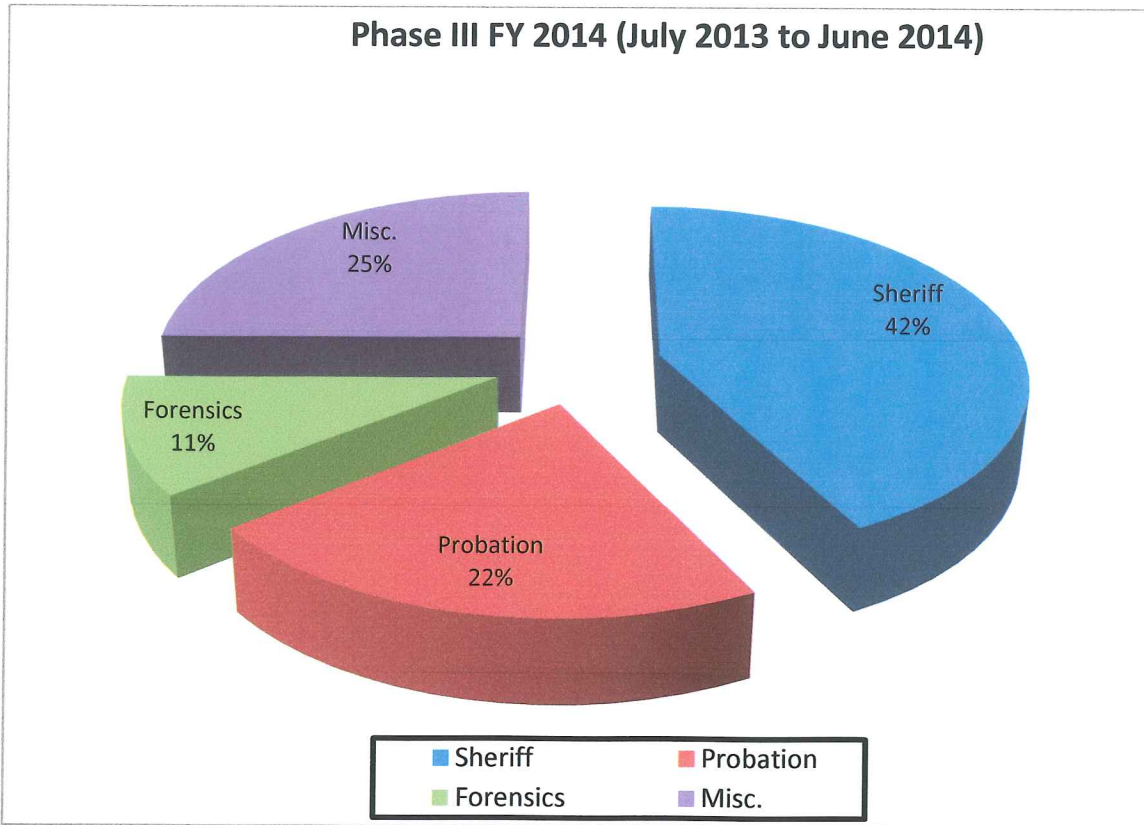
The following pie charts illustrate the budgets of each phase of the CCP AB 109 implementation plan. In reviewing these budgets, as well as the narratives describing each phase submitted by the CPO as part of the CCP's budget recommendation to the BOS, a couple of trends are noteworthy. The expansion of the IFT recognizes the need to provide behavioral health and drug treatment services to a significant number of the probation caseload that is underserved, homeless, or about to become homeless. Budgets and work

plans also show that additional county departments and community-based organizations have been added to address the expanded needs of both the incarcerated and those on probation that are now the County's responsibility. The budget has generally settled to about half being dedicated for Sheriff functions, one-quarter to Probation, with the remainder divided among the Integrated Forensics Team (IFT), county-wide apprehension of offenders, the District Attorney, Public Defender, Indigent Defense, and community-based organizations. For more detailed financial information, please see Appendix A.

### COMMUNITY CORRECTIONS PARTNERSHIP BUDGET



# COMMUNITY CORRECTIONS PARTNERSHIP BUDGET - CONTINUED



The SCCGJ has observed through interviews, review of CCP agenda material, and attendance at CCP meetings that the CCP is dedicated to successfully implement AB 109 and is committed to using its experience and diversity of disciplines to improve AB 109 implementation phase by phase. It is important and beneficial that the DA and PD have dedicated funds to support their additional workloads. The addition of privately operated community organizations such as the Nirvana Drug and Alcohol Institute and El Concilio are also important in recognizing the partnerships that are necessary between the County and community-based and faith-based organizations if the implementation of AB 109 is to be successful.

## **FINDINGS**

- F1. AB 109 has affected County Sheriff and Probation Departments most, and there have been some effects to other County departments.
- F2. The State provides funding for the implementation of AB 109 through a formula that has been developed and amended several times since AB 109 passed.
- F3. The Community Corrections Partnership, particularly the CCP Executive Committee, is responsible to allocate the funds provided by the State for the implementation of AB 109.
- F4. The CCP meetings are public, but are not widely publicized, and the current location of the CCP meetings would not be able to accommodate a large number of public participants.
- F5. AB 109 may have some effects to local public safety in the County, which may be compounded by budget cuts that have occurred to local law enforcement agencies.

## **RECOMMENDATIONS**

- R1. None
- R2. The Stanislaus County Sheriff and Chief Probation Officer should continue to be active, both individually and through their statewide organizations, to ensure that Stanislaus County receives its fair share of funding for the implementation of AB 109.
- R3. None
- R4. The CCP should develop strategies to increase public awareness of its mission and to encourage more public participation at meetings.
- R5. The Stanislaus County Board of Supervisors and the City Councils of all nine incorporated cities within the County should take action to restore budgets and expand police services, particularly community-oriented and problem-oriented policing, to respond to the potential challenges of AB 109.

## **REQUEST FOR RESPONSE**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses.

From the following individuals:

- Stanislaus County Sheriff
- Stanislaus County Chief Probation Officer

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors
- Modesto City Council
- Turlock City Council
- Ceres City Council
- Oakdale City Council
- Riverbank City Council
- Waterford City Council
- Hughson City Council
- Patterson City Council
- Newman City Council

## **INVITED RESPONSES**

Though not required by California Penal Code Section 933.05, the SCCGJ would welcome responses from the following:

- Stanislaus County District Attorney
- Stanislaus County Public Defender

## **CALIFORNIA PROPOSITION 47**

### **BACKGROUND**

Proposition 47 (Prop 47), officially titled the “Reduced Penalties for Some Crimes” initiative, was passed on November 4, 2014. The initiative passed by a statewide margin of 59.6% in favor to 40.4% opposed. In Stanislaus County the initiative failed with 47.6% in favor and 52.4% opposed. Nonetheless, Proposition 47 became effective statewide immediately.

Proposition 47 reduces penalties for certain offenders whose last convictions were non-serious and non-violent property and drug crimes. It also allows certain offenders who have been convicted of such crimes to apply for reduced sentences. The proponents of Prop 47 dubbed it the “Safe Neighborhoods and Schools Act” and argued that it would improve public safety, reduce government waste, redirect



taxpayer dollars, better fund K-12 schools, provide better crime victim assistance and mental health and drug treatment services for offenders.

Proposition 47 represents the latest in a series of ballot initiatives altering sentences and/or reclassifying crimes in response to an event or series of events or to modify the effects of a prior initiative. In 1992, 18-year-old Kimber Reynolds was shot and killed by a repeat violent offender. The next year, 12-year-old Polly Klaas was kidnapped, raped, and murdered by another repeat violent offender. In 1994, as a direct result of these two tragedies, California voters overwhelmingly passed Proposition 184, the “Three Strikes Law,” requiring a mandatory sentence of 25 years to life in prison for a third felony, even if it was non-violent. As a result, the prison population spiked, and overcrowding resulted to the point that the Federal Supreme Court stepped in and mandated a reduction in population levels. This mandate in turn led to a number of statewide ballot initiatives to reduce the prison population.

In 2000 voters passed Proposition 36, the “Drugs, Probation and Treatment Act,” giving rise to what is commonly referred to as “Drug Court.” This law requires that eligible offenders convicted for the possession, use, or transportation of drugs receives probation and drug treatment rather than incarceration. The convictions can be dismissed after completion of a drug treatment program.

In 2012 voters passed a second Proposition 36, which changed certain parts of the original 1994 “Three Strikes Law.” The third strike now resulted in a life sentence only when the new felony conviction is “serious” or “violent.” Resentencing was authorized for felony offenders serving life sentences if the third strike conviction was non-serious or non-violent. The 2012 Proposition 36 continues to require a life sentence for certain third strike convictions.

Proposition 47, like these other initiative solutions to crime and punishment, offered “better” alternatives to incarceration. Prop 47 promised to save the state criminal justice system millions of dollars annually and reduce recidivism. The SCCGJ found that, like these other ballot initiatives, Prop 47 has resulted in consequences that create their own issues.

## **DISCUSSION**

### **The Effects and Unintended Consequences of Proposition 47**

The SCCGJ found that the most immediate effects of Prop 47 have been to the County Sheriff, District Attorney, and Public Defender. Between November 4, 2014, when Prop 47 passed, and May 1, 2015, 1125 inmates have been released from custody from Stanislaus County detention facilities as a result of their latest convictions being reclassified from felonies to misdemeanors. The petitions to have felonies reclassified has burdened the Superior Court. In each petition, the Court must determine whether the felon meets the provisions for reclassification. These petitions often mandate a Deputy District Attorney and a Deputy Public Defender, both at public expense, to represent the balanced interests of the People and the Defendant. Because Prop 47 has only been in effect for a relatively short time, the long-term effects to the Sheriff, District Attorney, and Public Defender are unknown.

Proposition 47 has also resulted in significant unintended consequences. In 2004 California voters passed Proposition 69, the “DNA, Fingerprint, Unsolved Crime and Innocent Protection Act,” which increased the categories of individuals from which a DNA sample must be taken for inclusion into the California DNA Data Bank Program. As a result of Proposition 69, the Penal Code now requires that all adults charged, arrested, or convicted of any felony offense and all juveniles convicted of any felony offense provide a DNA sample. Proposition 69 was intended to provide prosecutors with an important

and useful tool to reduce serial crimes and solve cold crimes, as well as to prove the innocence of those wrongfully convicted of a crime. As a result of Prop 47, felony convictions that are reclassified are no longer mandated to provide a DNA sample since they are no longer felonies but misdemeanors. This has the potential to severely compromise the effectiveness of the state DNA database.

Under Prop 47 possession and use of illegal drugs are now misdemeanor violations. Prop 47 also reduced the penalties for the possession of date-rape drugs. Prior to Prop 47 the theft of any gun, regardless of value, was considered a felony. Because Prop 47 increased the value of what is considered a misdemeanor theft to \$950, the theft of a gun with a value of less than \$950 is no longer considered a felony.

Prop 47 effectively eliminated Drug Court. Prop 36, the "Substance Abuse and Crime Prevention Act of 2000," allowed qualifying defendants convicted of a non-violent felony drug possession offense to receive a probationary sentence in lieu of incarceration. As a condition of probation, defendants are required to participate in and complete a licensed and/or certified community drug treatment program. Defendants that successfully complete the program will have their felony drug possession convictions converted to misdemeanors by the Drug Court. Because Prop 47 reclassifies such drug crimes to misdemeanors anyway, Drug Court has become inconsequential. Without the Drug Court threat of incarceration, addicts have no incentive to seek treatment and rehabilitation. Also, because a misdemeanor drug conviction now rarely results in any jail time, persons needing drug treatment are never held or jailed to allow evaluation and mandatory treatment for their addictions.

Prop 47 is impacting the daily duties of police officers as well as the victims of crime. Under normal circumstances suspects arrested for a misdemeanor violation must be released on a written promise to appear (citation) rather than being booked into county jail. Many defendants fail to appear as required by the citation, resulting in a bench warrant. When arrested for an outstanding bench warrant, the defendant must again be issued a citation unless the warrant was issued for a violent crime, resulting in a perpetual "revolving door." The crimes reclassified by Prop 47 are not violent in nature. This method frustrates local police officers with a "catch and release" viewpoint. Police chiefs also expressed the concern that when victims of crime experience firsthand a citation being issued for the theft of their property with no jail time, they will become apathetic and no longer report lower value property crimes, thereby resulting in artificially low crime rate statistics.

There have been legislative attempts to correct some of the consequences created by Prop 47; notably, to restore the requirements for the state DNA database and to make the theft of any gun, no matter what its value, a felony. However, none of these legislative efforts have been successful. Until the problems resulting from the consequences of Prop 47 are corrected, their long-term adverse effects to public safety could be significant.

## **FINDINGS**

- F6. Proposition 47 has resulted in impacts to all levels of the County's criminal justice system, but it is difficult to quantify these impacts in the short term, and the long term impacts are unknown.
- F7. Proposition 47, combined with the budget reductions to local law enforcement agencies, may result in an increase in property crimes throughout the county.
- F8. The passage of Proposition 47 has resulted in significant unintended consequences. These include crippling Drug Court, creating holes in the state DNA database, and the reclassifying of some gun crimes.

- F9. There have been attempts to create legislative solutions to some of the consequences of Proposition 47, but they are yet to be successful.

## **RECOMMENDATIONS**

- R6. None
- R7. The Stanislaus County Board of Supervisors and the City Councils of all nine incorporated cities within the county should take action to restore budgets and expand police services, particularly community-oriented and problem-oriented policing, to respond to the current and future challenges of Proposition 47.
- R8. See R9
- R9. The criminal justice leaders of Stanislaus County should continue to be active, both individually and through their professional organizations, in California's legislative challenges to salvage the unintended consequences of Proposition 47.

## **REQUEST FOR RESPONSE**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses.

From the following individuals:

- Stanislaus County Sheriff
- Stanislaus County Chief Probation Officer
- Modesto Police Chief

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors
- Modesto City Council
- Turlock City Council
- Ceres City Council
- Oakdale City Council
- Riverbank City Council
- Waterford City Council
- Hughson City Council
- Patterson City Council
- Newman City Council

## **INVITED RESPONSES**

Though not required by California Penal Code Section 933.05, the SCCGJ would welcome responses from the following:

- Stanislaus County District Attorney
- Stanislaus County Public Defender

## PLANNING AND DEVELOPMENT OF THE PUBLIC SAFETY CENTER

### BACKGROUND

The development of the County Public Safety Center began in early 1988 when the Board of Supervisors, in order to qualify for \$6 million in jail construction funds allocated to the County by Proposition 52, accepted a County Jail Needs Assessment and Master Facility Plan. This report identified that the County had an immediate shortage of over 100 jail beds and that by 2007 that shortage was projected to increase to 1,500 beds. Recognizing that this long-term need for jail beds could not be satisfied by simply expanding existing facilities, this Needs Assessment and Master facility Plan contained the following recommendations:

1. Obtain a suburban site of at least 100 acres
2. Construct an incarceration facility on the site
3. Close the current women's detention facility (then located on Blue Gum Avenue)
4. Remodel the existing men's jail and use it to house post preliminary hearing inmates
5. With modifications, continue to use the honor farm on Grayson Road
6. Construct facilities for Sheriff's operations on the new site and eventually close the downtown men's jail

In compliance with the California Environmental Quality Act (CEQA), the County approved a "first tier" Environmental Impact Report (EIR) that evaluated the environmental impacts of the development of a new Public Safety Center on any one of the six alternate sites being considered at the time. As a "first tier" EIR, the County anticipated that a Subsequent EIR would be prepared that would evaluate the development of the new PSC on the site selected by the County.

In 1989 the Board of Supervisors selected and acquired a 155-acre site at Service Road and Crows Landing Road for the new Public Safety Center. Following site acquisition, the County issued Use Permit 90-28 approving a conceptual site plan. This conceptual site plan provided for the development of up to 1,789 jail beds within 648,231 square feet of jail and sheriff's operation areas. A Subsequent EIR was prepared for this conceptual plan, tiering from the site selection EIR. This Subsequent EIR evaluated the environmental impacts for the full build-out of development on the Crows Landing site allowed by Use Permit 90-28.

The approval of this use permit and subsequent EIR launched the development of the PSC. From 1990 to 1998, buildings were constructed which included Unit 1, the Sheriff's Operation Center, a kitchen/laundry facility, and a regional police training and academy complex.

In 2007, in order to qualify for funding under AB 900, which authorized over \$7 billion in revenue bond financing statewide to expand jail capacity, the Board of Supervisors accepted an updated Jail Needs Assessment and Public Services Master Plan for the Public Safety Center, Coroner facilities, and other public safety facilities. This needs assessment was later modified so that the jail beds lost due to the loss of the Grayson Road Honor Farm could be replaced at the Public Safety Center. The County concluded

that no additional review under CEQA was required for the 2007 needs assessment because the 1990 subsequent EIR provided sufficient environmental review.

An updated Needs Assessment for adult detention facilities was accepted by the BOS in 2011. This updated adult Needs Assessment allowed the County to successfully receive \$80 million in AB 900 funding (Phase II) and \$40M under SB 1022. For this 2011 needs assessment, the County prepared a mitigated negative declaration under CEQA. At that time the PSC was developed with 726 beds within 370,219 square feet of jail and support facilities. The mitigated negative declaration concluded that as long as certain mitigation measures were implemented, the addition of 648 jail beds within 224,000 square feet of jail and support facilities would not significantly impact the environment and no new EIR was needed.

The expansion financed through the Phase II AB 900 project continues with the development and construction of Unit 2, consisting of maximum security housing, medical/mental health facilities, a new Day Reporting Center, an intake/release/transportation/custody/administration facility, and a County Re-entry and Enhanced Alternative to Custody Training (REACT) Center Project.

## **DISCUSSION**

Over the 26 years that the PSC has been developed, the County has been comprehensive and forward thinking through the use of tiered environmental reviews that consider the future public safety needs of the county. Through regular updating of its criminal justice facility needs, the County has minimized the need for costly duplicative studies, has avoided environmental litigation, and has been able to maximize its competitiveness for state funding when it has become available. This progressive and proactive planning is even more important given the changing conditions and needs resulting from AB 109, Proposition 47, and whatever legislation may be considered in future years. However, as the 2007 horizon for the original 1988 Needs Assessment has passed, the County should continue to regularly update the Needs Assessments looking into our criminal justice facility needs for the next 20 years to ensure that adequate facilities are planned, funded, and developed when needed.

## **FINDINGS**

- F9. The County has been comprehensive and forward thinking in the planning of the Public Safety Center and has maximized the County's ability to respond to changing criminal justice facility needs and to qualify for state funding for the construction, expansion, and modification of facilities particularly in response to AB 109.

## **RECOMMENDATIONS**

- R9. The County Board of Supervisors should continue to update the master plan for the Public Safety Center on a periodic basis and provide adequate review under the California Environmental Quality Act (CEQA).

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code Section 933.05, the SCCGJ requests responses.

From the following individuals:

- Stanislaus County Sheriff
- Stanislaus County Chief Operations Officer

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors

## **NEW MODESTO COURTHOUSE**

### **BACKGROUND**

In November of 2014, the State of California approved the purchase of a 3½ acre site bounded by G and H Streets, 9<sup>th</sup> and 10<sup>th</sup> Streets in downtown Modesto for a new courthouse, which will consolidate existing court facilities in Stanislaus County. The project is currently in the architectural design/preliminary planning stage, which is expected to conclude in 2016. The New Modesto Courthouse is scheduled for completion in 2019. The development of the new courthouse raises important questions about the future of the existing courthouse at the 800 block of 11<sup>th</sup> Street. This courthouse building block is currently owned by the State of California, and the County owns the downtown jail and courthouse grounds. With a new courthouse, the existing courthouse site can be redeveloped. Once Unit 2 at the PSC is operational and if sufficient holding capacity is provided in the new courthouse, the downtown jail can be torn down and the entire site redeveloped. The New Modesto Courthouse project presents a tremendous opportunity to eliminate the obsolete downtown men's jail facility.

### **DISCUSSION**

The existing courthouse/jail block occupies a prominent location and is a very important part of downtown Modesto. When the New Modesto Courthouse is completed and occupied in 2019, the old one will no longer be needed. The State website indicates that upon completion of the new courthouse, the "lease will be terminated" at the existing courthouse. This will leave downtown Modesto with a very large vacant building.

As early as 1988 when the initial facilities Needs Assessment was done that created the Public Safety Center, the County has anticipated closing the downtown jail. County leaders expressed differing views to the SCCGJ regarding the future of the downtown jail because it is unclear whether the State will provide sufficient holding capacity for prisoners awaiting court proceedings. The Sheriff was very clear to members of the SCCGJ that the County would be required to maintain a holding facility at the Downtown Men's Jail if the State failed to provide adequate holding capacity at the new courthouse. The DA also expressed concerns to the SCCGJ regarding the safety of staff and clients walking past a holding

facility at the Men's Jail to the new county courthouse location. The SCCGJ believes it would be very unfortunate if the County were forced to maintain a holding facility at the existing Downtown Men's Jail location because the State failed to provide sufficient holding capacity in the new courthouse.

## **FINDINGS**

- F10. The construction of the New Modesto Courthouse and the development of the PCS raise significant questions concerning the future use/reuse of the downtown block containing the existing Courthouse and Downtown Men's Jail.
- F11. The transportation of offenders from the existing Downtown Men's Jail to the New Modesto Courthouse would pose logistical, financial, and public safety challenges.
- F12. It is imperative that the New Modesto Courthouse contain adequate holding facilities for detainees awaiting court proceedings.
- F13. Consistent with the original goals of the development of the PSC, the opportunity will never be better to eliminate the outdated facilities at the Downtown Men's Jail once the new courthouse is completed.
- F14. The 800 block of 11<sup>th</sup> Street will need to be redeveloped once the new courthouse is completed.

## **RECOMMENDATIONS**

- R10. The City of Modesto and Stanislaus County should begin immediate negotiations with the State of California to gain control of the old courthouse property by the time the new courthouse is completed and operational.
- R11. The City of Modesto, Stanislaus County Board of Supervisors, and the Stanislaus County Sheriff, should vigorously advocate in these early planning and design stages that the State of California provide adequate holding facilities in the New Modesto Courthouse.
- R12. See R11
- R13. See R14
- R14. Prior to the opening of the New Modesto Courthouse in 2019, the City of Modesto and Stanislaus County, with considerable public participation, should partner to develop a comprehensive plan for the reuse and redevelopment of the old courthouse and Downtown Men's Jail.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code section 933.05, the SCCGJ requests responses.

From the following individuals:

- Stanislaus County Sheriff
- Stanislaus County Chief Operations Officer

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors
- Modesto City Council

## **INVITED RESPONSES**

Though not required by California Penal Code Section 933.05, the SCCGJ would welcome responses from the following:

- Stanislaus County District Attorney
- Stanislaus County Public Defender



## APPENDIX A

### Community Corrections Partnership Spending Plan Fiscal Year 2011-2012 (Phase I)

**Sheriff's Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Services            | \$2,325,000        |
| State Parolee Bed Reimbursement              | 375,000            |
| Equipment expenses (one-time start-up costs) | 212,000            |
| 10% Administrative Overhead                  | <u>291,200</u>     |
| Total Sheriff's Department Budget Phase I    | <b>\$3,203,200</b> |

**Probation Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Services            | \$2,032,000        |
| Equipment expenses (One-time start-up costs) | 212,000            |
| 10% Administrative Overhead                  | <u>224,400</u>     |
| Total Probation Department Budget Phase I    | <b>\$2,468,400</b> |

**Integrated Forensics Team Expansion** \$244,485

**Regional Apprehension Task Force** \$100,000

**CCP Planning** \$150,000

**Total Phase I Budget** **\$6,166,085**

Available Phase I Funding \$6,584,825

Assigned Fund Balance \$418,740

**Community Corrections Partnership Spending Plan  
Fiscal Year 2012-2013 (Phase II)**

**Sheriff's Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Costs             | \$6,000,000        |
| Programming and Services Costs             | <u>\$826,500</u>   |
| Total Sheriff's Department Budget Phase II | <b>\$6,826,500</b> |

**Probation Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Costs             | \$2,881,118        |
| Programming and Services Costs             | <u>681,714</u>     |
| Total Probation Department Budget Phase II | <b>\$3,562,832</b> |

**Integrated Forensics Team and Mental Health Expansion**

|                                       |                    |
|---------------------------------------|--------------------|
| BHRS Staffing and Operational Costs   | \$1,445,344        |
| CSA Staffing                          | <u>132,904</u>     |
| Total IFT and Mental Health Expansion | <b>\$1,578,248</b> |

**Regional Apprehension Task Force**

\$100,000

**Temporary Day Reporting Facility Modular Building**

\$1,000,000

**Second Chances California**

\$85,750

**CCP Planning**

\$150,000

**Total Phase II Budget**

**\$13,303,330**

Available Phase II Funding

\$15,482,923

Assigned Fund Balance

\$2,179,593

**Community Corrections Partnership Spending Plan  
Fiscal Year 2013-2014 (Phase III)**

**Sheriff's Department:**

|   |                    |
|---|--------------------|
| Staffing and Operational Costs              | \$7,710,600        |
| Programming and Services Costs              | 244,000            |
| Total Sheriff's Department Budget Phase III | <b>\$7,954,600</b> |

**Probation Department:**

|   |                    |
|---|--------------------|
| Staffing and Operational Costs              | \$3,517,337        |
| Programming and Services Costs              | 585,438            |
| Total Probation Department Budget Phase III | <b>\$4,102,775</b> |

**Integrated Forensics Team Expansion**

|                                       |                    |
|---------------------------------------|--------------------|
| BHRS Staffing and Operational Costs   | \$1,870,442        |
| CSA Staffing                          | 132,000            |
| Total IFT and Mental Health Expansion | <b>\$2,002,442</b> |

**Chief Executive Office – Jail Medical Contract** \$500,000

**District Attorney** \$367,000

**Public Defender** \$200,000

**Indigent Defense Fund** \$90,000

**Regional Apprehension Task Force** \$100,000

**Second Chances California** \$87,750

**AB 900 Staffing and Programs** \$3,000,000

**Nirvana Drug and Alcohol Institute** \$45,000

**El Concilio** \$150,000

**CCP Planning** \$150,000

**Total Phase III Budget** **\$18,749,567**

FY 2013-2014 Allocation \$14,509,023

FY 2013-2014 Planning Funding 150,000

FY 2012-2013 Anticipated Carryover 4,400,000

Total Available Phase III Funding **\$19,059,023**

Anticipated Reserve/Contingency \$309,456

**Community Corrections Partnership Spending Plan  
Fiscal Year 2014-2015 (Phase IV)**

**Sheriff's Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Costs             | \$8,878,218        |
| Programming and Services Costs             | <u>319,600</u>     |
| Total Sheriff's Department Budget Phase IV | <b>\$8,197,818</b> |

**Probation Department:**

|  |                    |
|--|--------------------|
| Staffing and Operational Costs             | \$3,554,763        |
| Programming and Services Costs             | <u>529,500</u>     |
| Total Probation Department Budget Phase IV | <b>\$4,168,263</b> |

**Integrated Forensics Team Expansion**

|                                       |                    |
|---------------------------------------|--------------------|
| BHRS Staffing and Operational Costs   | \$2,078,197        |
| CSA Staffing                          | <u>132,000</u>     |
| Total IFT and Mental Health Expansion | <b>\$2,210,197</b> |

**Chief Executive Office – Jail Medical Contract** \$500,000

**District Attorney** \$412,291

**Public Defender** \$200,000

**Indigent Defense Fund** \$90,000

**Regional Apprehension Task Force** \$100,000

**Nirvana Drug and Alcohol Institute** \$45,000

**El Concilio** \$150,000

**CCP Planning** \$150,000

**Total Phase IV Budget** **\$16,223,569**

|  |                     |
|--|---------------------|
| FY 2014-2015 Anticipated Phase IV Allocation | \$14,427,383        |
| FY 2014-2015 Planning Funding                | 150,000             |
| FY 2012-2013 Growth Funding                  | <u>1,646,186</u>    |
| Total Available Phase IV Funding             | <b>\$16,223,569</b> |

|  |                    |
|--|--------------------|
| AB 900 Phase II Public Safety Center Expansion | \$1,000,000        |
| Anticipated Reserve/Contingency                | <u>800,000</u>     |
| Total Fund Balance                             | <b>\$1,800,000</b> |

Part VII  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**15-17GJ - Teach Them Well and  
Let Them Lead the Way**

## **2014-2015 Stanislaus County Civil Grand Jury**

### **TEACH THEM WELL AND LET THEM LEAD THE WAY,**

#### **CASE 15-17GJ**

#### **SUMMARY**

This report was prompted by concerns of the 2014-2015 Stanislaus County Civil Grand Jury (SCCGJ) about some of our County's most vulnerable residents, youth in the juvenile justice system. Research has widely documented the trauma, mental and physical health challenges, and educational challenges faced by youth entering the juvenile justice system. If communities fail to meet the needs of youth, we pay in human costs, as well as direct costs, for increased incarceration, public assistance, and use of emergency services. During our tour of the Stanislaus County Juvenile Hall and Commitment Center, the SCCGJ inquired about the availability of educational support, reintegration services and recidivism prevention for youth in the care of the Stanislaus County Probation Department. These findings highlight a need for increased focus on the needs of youth.

In an average year 900 youth enter the Stanislaus County Probation Facilities. Education is a major challenge for these youth. Probation Staff report that the overwhelming majority of these youth entering the facility severely lack proficiency in math and reading skills. Standardized test results of youth attending the Juvenile Court School, located in the Juvenile Hall, and run by the County Office of Education, showed that in 2012-2013 only 6% of students were proficient in English and 15% were proficient in math. During the tour of the facilities, Probation staff mentioned that educational challenges are a major factor contributing to youth's incarceration.

However, the challenges begin far before youth enter the juvenile justice system. The Chief Probation Officer (CPO) reported that "a snapshot of April 30, 2015, indicates the average length of stay at the Juvenile Hall to be 96 days and 40 days at the Juvenile Commitment Facility (JCF)". Because the average length of stay in either facility is relatively short, the test scores seem to reflect the educational climate the youth are coming from and will be returning to upon release. The standardized test results in English and math are clear evidence that these youth are in desperate need of more educational support.

Success in both school and life depend, in large part, upon a supportive and nurturing home environment. While the majority of youth return to family after exiting a detention facility, a small but vulnerable group of youth lack a suitable parent or guardian who can appropriately care for them after adjudication. The Stanislaus County Probation Department places approximately 98% of these youth in institutional group care facilities also known as congregate care. In 2014, the court placed 45 youth in group care. The CPO reports that the majority of these placements are out of state. Out of state

institutional group care isolate the youth from protective family visitation and family and community support, which often compounds educational challenges. The CPO expressed concern that these placements were not beneficial to the youth. Group homes lack the individualized resources to adequately address their educational, mental, and behavioral needs to assist youth in their transition into the community.

## **GLOSSARY**

### **Adjudicated**

The process in which the youth's guilt or innocence would be determined; if guilty, the youth would then face a disposition or sentencing. However, at any point the youth can be diverted out of the system to counseling, other services, or released altogether.

### **ART**

Aggression Replacement Training

### **CPO**

Chief Probation Officer

### **Graduation Coach Program**

An evidence-based student engagement program targeted at 7th grade students who are at risk of dropping out of school.

### **MRT**

Moral Reconciliation Training

### **Stanislaus County Juvenile Hall**

Detention center for youth who are detained by the Juvenile Court and are kept in care pending completion of their court proceedings.

### **Stanislaus County Juvenile Commitment Facility**

Houses youth who require a period of incarceration as part of their final disposition or youth who are pending placement.

### **Recidivism**

Refers to a relapse into criminal behavior

### **IEP**

Individualized Education Program

## **BACKGROUND**

This inquiry was prompted by concerns raised about the availability of support for youth in Stanislaus County's juvenile justice system during a tour of the County's Juvenile Detention Facilities and a subsequent review of the data. In 2013, 1,036 of our youth in Stanislaus County entered the care of the Stanislaus County Probation Department. Unfortunately, the 2013 standardized testing data shows that the majority of these youth are performing significantly below grade level in Math, English, and Science, and fare worse educationally than other students in Stanislaus County.

During the tour of the Juvenile Detention Facilities, Probation staff informed us that a majority of the youth entering the system come from poor and underserved areas in

Stanislaus County. Many of these youth suffer from one or multiple at-risk factors including:

- History of physical abuse
- Significant educational challenges
- Poverty
- Separation from family members
- Parental incarceration
- Exposure to violence in the home and community
- Mental illness
- Substance abuse

Research has identified each of these as contributing factors to the increased likelihood that a youth will become involved with the juvenile justice system. Research has shown that these factors also lead to increased recidivism as well as provide significant challenges when it comes to completing their education and entering the work force.

The SCCGJ has found the standardized testing data, combined with the presence of other at-risk factors to be cause for alarm. **The need for more educational resources cannot be any clearer.**

The SCCGJ became aware that the County Office of Education operates the educational program at Stanislaus County Juvenile Hall, and after release, youth will attend schools operated by the County Office of Education or local school districts. However while detained and post release, these youth are under the care and supervision of the Probation Department. Given the protective factors that positive educational experiences offer youth, a focus on education may be the most powerful tool the Probation Department can use to prevent recidivism and help youth thrive after release. This presents a critical opportunity for the Probation Department to change the trajectory of youth by ensuring that the necessary education and transitional supports are offered to allow youth to become healthy and productive adults.

## **METHODOLOGY**

The SCCGJ inquiry into the availability of educational support and reintegration services for youth in the care of the Stanislaus County Probation Department included a tour of the Stanislaus County Juvenile Hall and Juvenile Commitment Facility (JCF). The SCCGJ conducted its inquiry by asking related questions of Probation Staff during the Juvenile facilities tour and then interviewing the CPO. We also reviewed County data and researched related materials.

## **DISCUSSION**

The SCCGJ would like to commend the Stanislaus County Probation Department on their excellent management of these two facilities. During the tour, the SCCGJ was pleased to see that they appeared to be well organized and to hear staff's descriptions of the



comprehensive broad-based approach to rehabilitation and recidivism prevention. The facilities were clean and appeared to provide a safe positive environment.

Probation materials identify the stated goal of the JCF as to “change delinquent habits, attitudes and behaviors of youth and to guide them toward a more productive, pro-social lifestyle. This is accomplished through education, training and counseling services.” The Probation Department reports offering a wide variety of programs and services for youth while detained and post release such as:

- Moral Reconciliation Training (MRT)
- Aggression Replacement Training (ART)
- Community Service Program
- Judges Honor Role
- Intramural Soccer
- Teens Run (Probation running program)

Evidence suggests that counseling, including components such as anger management, social skills training, and career training eases youth’s transitions into the community and reduces recidivism. All of the listed programs in Stanislaus County give youth this advantage by offering the opportunity to build self-esteem and learn positive team building skills. While the JCF does offer some vocational programs such as a Culinary Class, and Kitchen Program, the career and technical focus is primarily aimed at preparing youth for potential employment in the food service industry. However, state employment projections for Stanislaus County indicate that through 2019, leisure, hospitality and retail trade will be some of the lowest areas of employment growth. Employment growth will be led by education, healthcare and professional services (including technology), areas in which the JCF does not currently offer career or technical training.

Additionally, the SCCGJ questioned the impact that these programs have had on recidivism to ensure that the programs offered are those that give youth the best chance of exiting successfully. At the time of our facilities tour, we were informed that the Probation Department did not currently collect juvenile recidivism data. During follow up questioning at a later date, the SCCGJ was pleased to learn that, according to the CPO, “the Probation Department was recently granted permission to hire a Juvenile Crime Analyst/Researcher.... Juvenile recidivism rates are one of many things the analyst will track.”

The SCCGJ also has a specific interest in ensuring positive outcomes for parenting youth involved with the Stanislaus County JCF. Young parents face additional special challenges in succeeding educationally and being able to meet the emotional and financial demands of parenting. Children of teen parents are particularly at-risk for a number of widely documented negative outcomes, and without supports may end up repeating the cycle of involvement in the juvenile justice or child welfare system. National research has found that as many as 30% of incarcerated youth may already be parents. However, despite the fact that the San Joaquin Valley has the highest teen birth

rates in California, the Stanislaus County CPO reported that only one youth currently being detained is a parent (data was not provided on cumulative annual numbers). We feel that there may be several factors contributing to this unusually low reported number including:

- Fear of losing custody
- Fear of child support
- Fear of child welfare involvement
- Other legal issues
- Strained relationships with custodial parents
- Lack of standard collection of information from youth upon intake

Despite the low numbers reported, the juvenile detention facilities do provide limited accommodations for visitation between youth and their children. Children are allowed to visit; however, visitation is by special appointment. The parent/guardian must contact Juvenile Hall staff to schedule a visit. Research has found that close interaction with children often provides an incentive for positive behavior for troubled youth. Based on this research, youth should be allowed to visit their children during all regular visitation hours as well as by special appointment. Additionally, special attention should be paid to minimizing the stigma and shame of incarceration for youth with their children. Currently, during visitation, youth wear their probation issued jumpsuits. To reduce stigma and promote a more positive image to children during these visits, visitation should be in a closed setting away from general visitation and youth should be allowed to wear casual clothing.

The efforts taken by the Probation Department to provide adequate services for juveniles while in care appears to be exemplary. However due to the relatively short time an average youth will spend in the facility's care, there is concern with post care services for adjudicated youth.

As previously described, there are significant educational challenges facing probation supervised youth. There is a need for more one-on-one long term educational counseling to ensure youth graduate with basic skills and abilities.

In 2013, the United Way of Stanislaus County funded a Program in partnership with the Center for Human Services known as "Graduation Coach". It is currently offered at three locations throughout the County: Creekside Middle School in Patterson, Evelyn Hanshaw Middle School and Prescott Junior High School in Modesto.

United Way of Stanislaus County describes the required program components as:

"I. The Graduation Coach's focus will be to:

- Identify and address barriers to success by working with the student on an intervention plan and/or providing appropriate resources and referrals.
- Act as a mentor by developing a meaningful positive relationship with the student.

- Bridge communication between the student's parents/guardians and the school, creating a stronger support system for the student.

II. Provide enrichment opportunities such as referrals to youth programs, career exposure opportunities, afterschool programming, etc.

III. The Graduation Coach will be expected to:

- Hold one-on-one meetings with students, with a possibility of holding small group meetings.
- Engage parents/guardians, including conducting home visits.
- Utilize the Check and Connect intervention model in order to engage students and monitor Academic success.
- Implement required evaluation plan.”

A program designed for probation supervised youth based on the “Graduation Coach” model would significantly increase a youth’s chance at a successful transition.

Even the most promising programming cannot replace the educational and developmental support provided to youth by a stable, nurturing family. A small but important number of probation supervised youth are unable to return to their biological families. Nearly all of these youth are placed in congregate care, often outside the county and even the state. A recent study indicated that more than 40% of the children in congregate care have no documented clinical or behavioral needs that might warrant placing a child outside a family. In many cases, a child ends up living in a group placement simply because appropriate family placement has not been found.

The concerns expressed by the CPO about the ability of these facilities to meet the needs of youth in the juvenile justice system and prepare them to return to their community are consistent with those increasingly raised across the state and country. Research has found that group care is associated with:

- lifelong institutionalized behaviors
- an increased likelihood of being involved with the juvenile justice system
- low educational attainment levels

Additionally, a group of nationally respected researchers recently stated in the American Journal of Orthopsychiatry 84.3 (2014): 219 “Group settings should not be used as living arrangements, because of their inherently detrimental effects on the healthy development of children, regardless of age.”

In response to this study and other research<sup>1</sup> documenting the poor outcomes and inability of group care facilities to provide youth the treatment and care necessary to rehabilitate, legislation has been proposed at the state and national level to drastically

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<sup>1</sup> [http://www.cdss.ca.gov/cdssweb/entres/pdf/CCR\\_LegislativeReport.pdf](http://www.cdss.ca.gov/cdssweb/entres/pdf/CCR_LegislativeReport.pdf)

limit the number of children placed in group care. This year, the California Department of Social Services proposed legislation, AB 403, that would focus on transitioning Child Welfare and Probation departments from use of group care towards provision of services in the homes of foster families and relatives. President Obama echoed Stanislaus County's concerns when he proclaimed last month "We know that children are best raised in families, not institutions."

While the number of probation supervised youth who cannot be returned home safely to a parent or guardian is relatively small, nearly all of these youth are placed in group care. The adverse effects of group care placement will have a tremendous impact on a youth's ability to successfully transition back into the community and succeed educationally. While several successful evidence based foster family programs exist for youth in the probation system, such as Multi-Dimensional Treatment Foster Care, they are rarely used. Stanislaus County must ensure efforts to place youth with families are prioritized and resourced. With increased efforts to recruit and support foster families and collaborations with family finding organizations, the Stanislaus County Probation Department can eliminate the placement of youth in group care facilities.

The implementation of these new programs, policies and practices will significantly improve youth's chances of a successful reentry into the community and ensure a safer and healthier community for all Stanislaus County residents.

## **FINDINGS**

- F1:** In 2013 the Juvenile Hall court school standardized test results showed that only 6% of the youth were proficient in English and 15% were proficient in math. Prior years produced similar data.
- F2:** Approximately 98% of youth placed by the court in out of home placement are housed in a group care facility. Studies show that group homes are detrimental to the development of youth.
- F3:** Detained youth are encouraged to participate in vocational programs including culinary and computer repair. However, according to recent employment trends, the areas of greatest employment growth are in the technology and internet based business industries.
- F4:** Detained youth who are also parents are encouraged to maintain relationships with their young children, but the facilities only allow limited visitation.

## **RECOMMENDATIONS**

- R1:** The Probation Department should work with other Stanislaus County agencies and community-based organizations to develop a comprehensive program including mentoring, for youth returning to regular school, modeled after the “Graduation Coach” implemented in 2013, to provide a more comprehensive individualized approach.
- R2:** Eliminate group care for probation supervised youth and partner with community groups such as Seneca Center’s Family Finding Program to identify and support relatives and increase placement options.
- R3:** Expand vocational/career training programs to include more options in technology and internet based careers.
- R4:** Facilities should ensure that policies prioritize the relationship between probation supervised youth and their children.
- Detained youth who are parents should be allowed to visit during all regular visitation hours as well as by special appointment.
  - During visitation youth should be provided normal casual attire and any needed support with grooming to present a positive image for children during visitation.
  - Visitation should be in a closed setting separated from general visitation.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses:

From the following individuals:

- Stanislaus Chief Probation Officer

From the following governing bodies/entities:

- Stanislaus County Board of Supervisors

## **INVITED RESPONSES**

- Stanislaus County Office of Education, Superintendent of Schools

Part VIII  
Stanislaus County Civil Grand Jury  
2014-2015 Final Report

**Continuity Committee  
General Report**

# 2014-2015 Stanislaus County Civil Grand Jury

## CONTINUITY COMMITTEE GENERAL REPORT

### SUMMARY

This report is a summary of the recommendations of the 2013-2014 Stanislaus County Civil Grand Jury (SCCGJ) and the responses issued by the requested entities. Only responses disagreeing with SCCGJ recommendations are contained in this report.

### BACKGROUND

The 2013-2014 SCCGJ received and investigated a variety of citizen complaints as well as initiated its own investigations, inspections, and audits throughout its term. The purpose of the Continuity Committee is to ensure accountability and continuity regarding the 2013-2014 SCCGJ's Final Report relative to findings and appropriate responses to recommendations. Responses must be received within the specified time frames pursuant to California Penal Code Section 933(c). For the full text of Section 933(c), see Appendix A at the end of this section.

The 2013-2014 SCCGJ that generated the final report completed its term before the responses were received; therefore, only the 2014-2015 SCCGJ can monitor the accountability process. Acting as the citizens' "watchdog" and in the interest of assuring continuity, the Continuity Committee reviews and reports on the responses to ensure that they meet the criteria spelled out in California Penal Code Section 933.05. For the full text of Section 933.05, see Appendix B at the end of this section.

### METHODOLOGY

The Continuity Committee received copies of the SCCGJ 2013-2014 Final Report and copies of each response forwarded to it from the Presiding Judge of the Superior Court of Stanislaus County. The Subjects of Investigation from the 2013-2014 Report were as follows:

- Case 14-03C Housing Authority of Stanislaus County
- Case 14-04C Stanislaus County Sheriff's Department
- Case 14-06C City of Patterson
- Case 14-21GJ Stanislaus County Jail Facilities Inspection
- Case 14-25GJ Modesto and Turlock Police Departments

Responses were received from the following entities:

- Housing Authority of the County of Stanislaus
- Housing Authority of the County of Stanislaus Executive Director
- Stanislaus County Sheriff's Department
- Mayor of the City of Patterson
- Interim City Manager of the City of Patterson
- Stanislaus County Probation Department Chief Probation Officer

- Turlock Police Department Chief of Police
- City of Modesto Police Department
- The Board of Supervisors of the County of Stanislaus and its Chief Executive Officer

Responses were not received as required from the following entities:

- Modesto City Council

The Continuity Committee compared the requests for responses contained in each investigation with the responses received to verify that each recommendation was responded to by each entity and in a timely fashion. The committee then prepared a report for each case number reiterating the 2013-2014 SCCGJ's recommendations and recording each entity's responses. Each report then states whether the 2014-2015 SCCGJ is satisfied or unsatisfied that each entity responded according to California Penal Code Section 933(c).

Attached at the end of this section are the following Appendices:

- Appendix A: California Penal Code Section 933(c)
- Appendix B: California Penal Code Section 933.05
- Appendix C: California Penal Code Section 919(b)
- Appendix D: Response from the City of Patterson dated September 18, 2014

## **HOUSING AUTHORITY OF STANISLAUS COUNTY**

### **CASE 14-03C**

#### **SUMMARY**

The 2014-2015 SCCGJ received a timely response from the Stanislaus County Board of Supervisors. The Housing Authority Executive Director responded for the Housing Authority (HA) in a timely fashion. However, the 2014-2015 SCCGJ finds the Housing Authority response to Recommendation 7 (R7) to be ambiguous and recommends further investigation into the matter by the 2015-2016 SCCGJ.

#### **BACKGROUND**

The 2013-2014 SCCGJ received a complaint, Case 14-03C, regarding employment issues and violations of the Brown Act within the Housing Authority of Stanislaus County. During the investigation of the complaint, issues regarding banking and file management practices were also revealed.

This report summarizes the recommendations made by the 2013-2014 SCCGJ and the responses from the following:

- The Housing Authority Executive Director
- The Housing Authority Commissioners
- The Stanislaus County Board of Supervisors



## **RECOMMENDATIONS**

The recommendations of the 2013-2014 SCCGJ were as follows:

- R1. through R4., R6., R8. “None”
- R5. “The Housing Authority should post all notices required by the Brown Act on the outside window of the Housing Authority lobby. This will allow the public to see any changes.”
- R7. “The Housing Authority should change its policy to not allow pets in the Housing Authority building.”
- R9. “The Housing Authority should change its policy about the handling of clients’ personal information to include the requirement that clients’ files be kept in a locked vault or locked filing cabinets at all times.”

## **RESPONSES**

### **Stanislaus County Board of Supervisors**

Pursuant to an Action Agenda Summary from the Board of Supervisors of the County of Stanislaus dated September 16, 2014, the Board of Supervisors unanimously agreed with the 2013-2014 SCCGJ recommendations. The Board of Supervisors made this further recommendation: “Direct the Chief Executive Officer to ensure that the recommended actions by the Board of Supervisors be followed and completed by the subject County Departments and report back to the Board as appropriate.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Board of Supervisors responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

### **Housing Authority/Housing Authority Executive Director**

In a letter dated September 18, 2014, signed by the Housing Authority Executive Director, the Housing Authority submitted the following response:

- R5. “The HA will not implement the recommendation for the reason that it currently uses a locked case wherein all notices required by the Brown Act are posted. The display case is located on the Authority premises in an area which is fully accessible to the public and available for public inspection on a twenty four hour basis. This display case adequately addresses the concern raised by the SCCGJ.”
- R7. “The HA agrees as a matter of practice that pets should not be allowed in the HA building unless authorized by law. The HA has adopted a Visitors Policy which addresses the restriction of pets in all areas of the buildings. It has communicated same to all of its employees.”

The 2014-2015 SCCGJ is satisfied that the Housing Authority and Housing Authority Executive Director responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c). However, the 2014-1015

SCCGJ finds that the response to R7 is ambiguous regarding employees' pets, and the Housing Authority policy should include all pets except those authorized by law. Therefore, the 2014-2015 SCCGJ deems further investigation into this matter appropriate by the 2015-2016 SCCGJ.

## **STANISLAUS COUNTY SHERIFF'S DEPARTMENT**

### **CASE 14-04C**

#### **SUMMARY**

The Stanislaus County Board of Supervisors, its Chief Executive Officer, and its Sheriff's Department disagreed with the recommendations of the 2013-2014 SCCGJ, but they did file their responses in a timely manner.

#### **BACKGROUND**

The 2013-2014 SCCGJ received a complaint, Case 14-04C, regarding the use of the Stanislaus County Sheriff's Department's helicopter for non-law enforcement activities.

This report summarizes the recommendations made by the 2013-2014 SCCGJ and the responses from the following:

- The office of the County Chief Executive Officer (CEO)
- The Stanislaus County Board of Supervisors
- The Stanislaus County Sheriff

#### **RECOMMENDATIONS**

The recommendations of the 2013-2014 SCCGJ were as follows:

- R1. "The Sheriff, in consultation with the County Chief Executive Officer (CEO), establish a specific written policy defining the use of Sheriff Department resources, such as helicopters, for "non-law enforcement" activities."
- R2. "The policy allowing the use of the Sheriff's Department helicopter for non-law enforcement activities must include written approval that requires the concurrence of two senior members within the Sheriff's Department, or one member of the Sheriff's Department and the CEO's office. Such approval should be processed in advance of the non-law enforcement activity."

#### **RESPONSES**

##### **Stanislaus County CEO and Board of Supervisors**

Pursuant to an Action Agenda Summary from the Board of Supervisors of the County of Stanislaus dated September 16, 2014, issued from the office of the Chief Executive Officer, the Board of Supervisors and its Chief Executive Officer unanimously responded as follows:

- R1. “The Board of Supervisors disagrees with this recommendation. A written policy regulating the Use of County Vehicles, Aircraft and Other Transportation Equipment was adopted by the Board of Supervisors on September 13, 2005. Certain activities, which may not be considered a direct law enforcement activity, could be considered a non-direct law enforcement activity in that they further the mission of the Sheriff’s Department and create a variety of positive benefits for the law enforcement community. The Board of Supervisors allows some limited flexibility to the elected Sheriff in determining what are proper law enforcement activities.”
- R2. “The Board of Supervisors disagrees with this recommendation. While the review and concurrence of other senior members of the organization could provide guidance to the Sheriff, the elected Sheriff is ultimately directly accountable to the Public and the Board of Supervisors regarding the performance of the activities of his department.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Board of Supervisors and its CEO have responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## Stanislaus County Sheriff

Pursuant to a letter from the Stanislaus County Sheriff’s Department dated June 25, 2014, the Sheriff’s Department responded as follows:

- R1. “The respondent disagrees with the recommendation.”  
“Additional policies and/or procedures supporting our work in the community are unnecessary. We are currently operating lawfully, legally and in compliance with all Federal Aviation Regulations. *This report specifically states: ‘there is no illegal or unlawful activity or intent to misuse public funds, by the Sheriff’s Department.’*”
- R2. “The respondent disagrees with the recommendation.”  
“Additional policies and/or procedures supporting our work in the community are unnecessary. There is no reason to obtain authorization from anyone other than the Sheriff, who is elected by and directly accountable to the people.”

To clarify the foregoing statements, it should be noted that the Sheriff’s Department responded to the findings of the 2013-2014 SCCGJ in the following manner:

“Our work throughout the community, *everything* we do, is a law enforcement activity as defined in our Mission Statement. There is nothing in policy, practice, procedure, written or otherwise, including any type of service we provide, that could specifically be defined as a ‘non-law enforcement activity.’”

The Sheriff’s Department further stated:

“Our work throughout the community, *everything* we do, is official business as defined in our Mission Statement.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Sheriff's Department responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **CITY OF PATTERSON, CASE 14-06C**

### **SUMMARY**

The Mayor and the City Manager of Patterson stated in their response that they “wholly” or “partially” disagreed with the findings and recommendations of the 2013-2014 SCCGJ. Nevertheless, they agreed to implement all or part of the 2013-2014 SCCGJ recommendations.

### **BACKGROUND**

The 2013-2014 SCCGJ received a complaint, Case 14-06C, alleging that the City Council of Patterson, California repeatedly violated Government Code Section 54954.5(b), also known as the Brown Act, with regard to real property transactions. During the course of the investigation, it was discovered that Council Meeting minutes were not approved and published in a timely manner.

This report summarizes the findings and recommendations made by the 2013-2014 SCCGJ and the responses from the following:

- The Mayor of Patterson
- The City Manager of Patterson

### **RECOMMENDATIONS**

The recommendations of the 2013-2014 SCCGJ were as follows:

- R1. “The City Council, as required by the Brown Act, should list the street address as well as the APN’s of properties being considered for sale or purchase. When negotiating for the sale or purchase of property, negotiator(s) and legal entities involved should be disclosed.”
- R2. “The City Council should approve previous meeting minutes at the beginning of each City Council meeting. The City Administration should follow up to see if improvements in reporting and information access have been made.”
- R3. “Videos of City Council meetings should appear on the City Council website within two business days, similar to the reporting procedures of other cities in the region.”
- R4. The City Administration should follow up to see if improvements in reporting and information access have been made.

### **RESPONSES**

In a letter dated September 18, 2014 both the Mayor of Patterson and the Interim City Manager of Patterson wholly and/or partially disagreed with all of the recommendations of the 2013-2014 SCCGJ. Their response is quite detailed and is attached at the end of this section as Appendix D.

The 2014-2015 SCCGJ is satisfied that the Mayor of Patterson and the Interim City Manager of Patterson responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **STANISLAUS COUNTY JAIL FACILITIES INSPECTION**

### **CASE 14-21GJ**

#### **SUMMARY**

The Stanislaus County Sheriff, Stanislaus County Chief Probation Officer, and Stanislaus County Board of Supervisors responded to the recommendations of the 2013-2014 SCCGJ, and they are therefore in compliance with California Penal Code Section 933(c).

#### **BACKGROUND**

Pursuant to California Penal Code Section 919(b), members of the 2013-2014 SCCGJ conducted the annual Stanislaus County Jail Facilities Inspection. The facilities inspected were the Downtown Men's Jail (MJ) at 1115 H Street; the Stanislaus County Sheriff's Department Public Safety Center (PSC), Unit 1 and Unit 2, at 200 E. Hackett Road; and the Stanislaus County Probation Department/Juvenile Detention Facility at 2215 Blue Gum Avenue.

The annual inspection consisted of document review relating to the standards each facility is required to meet as well as a physical inspection of the structures and operation. The inspection was completed by January 13, 2014. The results of the facilities inspection were documented as Case 14-21GJ in the 2013-2014 SCCGJ's Final Report.

This report summarizes the recommendations made by the 2013-2014 SCCGJ and the responses from the following:

- Stanislaus County Sheriff
- Stanislaus County Chief Probation Officer
- Stanislaus County Board of Supervisors

#### **RECOMMENDATIONS (OVERALL)**

The recommendations of the 2013-2014 SCCGJ were as follows:

- R1. "Consider combining the Public Safety Center and Men's Jail Policy Manuals into one manual and issue to each site as the Policy Manual for both facilities."

## **RECOMMENDATIONS (SPECIFIC TO FACILITIES)**

### **Men's Jail**

- R2. "Upon completion of AB900 Phase II Project, move the second inmate from each cell to resolve overcrowding."
- R3. "Replace burned out bulbs in exit signs and repair leaks and water damage."
- R4. "Recommend that the new plans for a combined downtown jail/courthouse facility be designed for longer term housing. "
- R5. "Recommend that housing of inmates be in compliance with the capacity set by the State pursuant to Board of State and Community Corrections."
- R6. "Recommend to increase recruiting efforts to fill present and future staff positions."

### **Public Safety Center**

- R7. "None"
- R8. "None"

### **Probation Department/Juvenile Institutions**

- R9. "Increase recruiting efforts to fill present and future staff positions."
- R10. "None"
- R11. "None"

## **RESPONSES**

### **Stanislaus County Sheriff**

Pursuant to a letter dated June 30, 2014 the Stanislaus County Sheriff's Department responded as follows:

"Pursuant to Penal Code Sections 933(c) and 933.05(f), the following is our response as it pertains to the Sheriff's Department Detention Facilities:"

- R1. "The Respondent wholly disagrees with the recommendation. Please refer to the Department's response under F1."

The Sheriff's Department's response to Finding 1 (F1) was as follows:

"The respondent partially agrees with the finding. All Adult Detention Division policies comport with statutory and legal requirements, as outlined in Title 15-Crime Prevention and Corrections, Title 24-Minimum Standards for Local Detention Facilities the State Penal Code and all other applicable state and federal regulations and laws. Though the division has one standard policy manual, both the Men's Jail and Public Safety Center have independent procedural manuals, which fully comply with the division policy, but are necessitated by the unique physical plant and operational challenges inherent within each facility. The policy manuals are reviewed and updated annually. At the next scheduled review, the Commander of the Men's Jail will assess the need to revise the language to make it more user friendly."

- R2. "The Respondent wholly disagrees with the finding. The County and Sheriff's Department received a grant of \$80 million dollars from the State under AB 900-Phase II and another \$40 million dollars under SB 1022 to construct new inmate bed capacity, inmate health care beds, a health care unit, a Day Reporting Center, inmate replacement beds and a Re-Entry Alternatives to Custody Training Center. In both grants, the county was required to provide a 10% match in funds, which was accomplished. The AB 900 Projects, which include 480 maximum-security beds, 72 health care beds, a health care unit, a central control and a Day Reporting Center, are scheduled for activation in the Fall 2016. The SB 1022 Projects, including 288 replacement beds and the REACT Center, are scheduled for activation by early 2018. At that time, the Men's Jail will likely convert to a court-holding facility, with a reduced total population capacity. The double-cells do not violate state mandates due to the age of the facility and will remain in use throughout."
- R3. "The Respondent wholly disagrees with the recommendation. Please refer to the Department's response F3."

The Sheriff's Department's response to Finding 3 (F3) was as follows:

"The Respondent wholly disagrees with the finding. We are at a bit of a loss on this finding. The Men's Jail has no lighted exit signs anywhere in the jail, nor have we seen reports reflecting this issue. Further, we reviewed the Stanislaus County Environmental Health Official Notice dated April 23, 2014 and found no reference pertaining to water damage. The same is true of inspections performed by the Inmate Medical Quality Assurance Board, Board of State and Community Corrections and the Fire Marshal. The Men's Jail did experience water damage two years ago in the Court Tunnel and Inmate Work Quarters, but those leaks were repaired and reflected as such on the Environmental Health Report filed at that time. Staff at the jail has made notable and commendable progress in cleaning-up, painting and upgrading the facility, repairing damage to the infrastructure and enhancing security throughout. Less than two years ago, the county funded a major project to renovate the HVAC system. Any existing damage or structural problems are addressed and corrected aggressively by the jail commander and his supervisors, as they are identified."

- R4. "The Respondent disagrees with the finding. The State and County have already entered a partnership to construct new and replacement detention facilities under AB 900 and SB 1022 on the current site of the Public Safety Center. The State and County also entered into an agreement to construct a new courthouse in the downtown area. The new detention facilities will be of modern design, with available programming, to accommodate a longer-term inmate population."

R5. “The Respondent partially agrees with the finding. The Consent Decree governs inmate-housing capacity at the Men’s Jail and trumps BSCC standards. The entire existing and planned inmate housing at the Public Safety Center site comports with BSCC standards, though the maximum capacity is still governed by the Consent Decree.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Sheriff’s Department responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **Stanislaus County Chief Probation Officer**

Pursuant to a letter dated July 23, 2014 the Stanislaus County Chief Probation Officer responded as follows:

R9. “The recommendation has been implemented, with a summary regarding the implemented action.”

“The department has consistently made efforts to reach qualified candidates by attending job fairs, meeting with criminal justice students at local college campuses and providing volunteer/internship opportunities. We are committed to bringing in highly qualified candidates and are always looking for different ways to broaden our prospective pool of candidates. We recently hired a new Human Resources Manager for the department who has a vast array of experience in recruiting and hiring peace officers from previous employment. His knowledge and new ideas in recruiting qualified officers will benefit both this department and the county in the future.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Chief Probation Officer responded to the findings and recommendations of the 2014-2015 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **Stanislaus County Board of Supervisors**

Pursuant to an Action Agenda Summary from the Board of Supervisors of the County of Stanislaus dated September 16, 2014, the Board of Supervisors unanimously responded as follows:

R1. “The Board of Supervisors agrees with the Sheriff’s response as noted earlier regarding future updates of the Policy Manuals.”

The Board of Supervisors’ response regarding future updates of the Policy Manuals is in reference to its response to Finding 1 (F1), which states as follows:

“The Board of Supervisors agrees with the Sheriff’s response. The Policy and Procedures for the Adult Detention Division are reviewed annually and are reviewed bi-annually by the Board of State and Community Corrections (BSCC). The Policies are also reviewed by various other code and regulatory agencies. We support the Sheriffs [sic] response that at the next scheduled review, the Commander of the Men’s Jail will assess the need to revise the language to make it more user friendly.”



- R2. “The Board of Supervisors disagrees with the finding. In addition to the response from the Sheriff, it is important to know the tremendous focus the County has placed on modernization of public safety detention facilities. The AB 900 Phase II Project, now under construction will add significant additional capacity to the adult detention system. In addition, the State Public Works Board has recently approved the first SB 1022 Project to proceed to design in the State of California, the Stanislaus County REACT Center Project which will construct 288 traditional beds with a focus on rehabilitation and successful re-entry.”
- R3. “The Board of Supervisors agrees with the Sheriff’s response. The Board supports maintenance of County facilities and allocates funds for these purposes to ensure that aging facilities are well maintained and operational.”
- R4. “The Board of Supervisors does not support this finding . The State of California has moved forward with location selection and design of a new courthouse without new or expanded jail facilities. Thus, the County then made significant plans to expand the County’s Public Safety Center with new and replacement adult detention facilities. The County is not responsible for the design and construction of a new Courthouse.”

The 2014-2015 SCCGJ is satisfied that the Stanislaus County Board of Supervisors responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **MODESTO AND TURLOCK POLICE DEPARTMENTS**

### **CASE 14-25GJ**

#### **SUMMARY**

The Turlock City Council and the Chief of Police of the Turlock Police Department (TPD) responded to the recommendations of the 2013-2014 SCCGJ. The SCCGJ has received no response from the Modesto City Council, and it is therefore not in compliance with California Penal Code Section 933(c).

#### **BACKGROUND**

Members of the 2013-2014 SCCGJ toured the new Turlock Police and Fire Department Headquarters located at 244 N. Broadway, Turlock, CA 95380 and also participated in Turlock and Modesto Police Department ride-alongs. Their findings and recommendations were outlined in Case 14-25GJ.

This report summarizes the recommendations made by the 2013-2014 SCCGJ and the responses from the following:

- Turlock Chief of Police
- Modesto Chief of Police
- Turlock City Council
- Modesto City Council

## **RECOMMENDATIONS**

The recommendations of the 2013-2014 SCCGJ were as follows:

### **Turlock Police Department**

- R1. “The 2013-2014 SCCGJ realizes that the shortage of sworn officers is due to budget cuts but recommends stronger recruitment campaigns and better benefits to attract qualified candidates.”
- R2. “None. The 2013-2014 SCCGJ was very impressed with the TPD officers’ community involvement.”

### **Modesto Police Department**

- R3. “The 2013-2014 SCCGJ realizes that the shortage of sworn officers is due to budget cuts but recommends stronger recruitment campaigns and better benefits to attract qualified candidates, reduce stress levels, and lower the turnover rate.”
- R4. “None. The 2013-2014 SCCGJ was very impressed with the MPD officers’ community involvement.”

## **RESPONSES**

### **Turlock Chief of Police**

In a letter Dated June 30, 2014 the Chief of Police of the Turlock Police Department responded as follows:

- R1. “Our department is currently understaffed due to five vacant police officer positions as well as four long term injuries. In addition to these vacancies over the last two years, we have cut seven additional vacant police officer positions due to budget constraints. Those cuts were necessary due to declining revenues into the City’s general fund budget which was compounded by a loss of federal funding for four officers due to the expiration of a grant.”

“Over the last six months, we have been actively recruiting police officers. We have also reinstated the practice of hiring recruits and sending them to the police academy as employees of the department. Although this process adds as much as six months to the training process for new officers we feel it is a good practice for the future of the department. Just last month we received over 450 applications for these positions and are currently in the testing process to identify the best candidates. Our plans are to send two to four recruits to a police academy in September. Projections are that these recruits will finish their training in the academy in March of next year.”

“We are also actively recruiting for those that have already obtained their police academy training as well as lateral officers that are already working as an officer or deputy sheriff for a

law enforcement agency somewhere else in the State of California. I am happy to say that we are making progress on all three recruitment strategies.”

“I do not agree with the entirety of the comments in recommendation R1. The way this short comment reads, it would appear that the jury believes our benefits are lacking. I understand it is a very easy assumption that just by offering increased benefits more people will be interested in a position. If a little more vetting was done, it would have been realized that our health care program for our employees is better than any comparison cities in our area. To say we need better benefits alludes to the idea that our benefits package is lacking. We must remember that benefits include much more than just an employee’s salary. I anticipate in the future as our local economy improves, our employees will realize increases in their benefit packages.”

The 2014-2015 SCCGJ is satisfied that the Chief of Police of the Turlock Police Department responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **Turlock City Council**

In Resolution No. 2014-139 dated August 12, 2014 The City Council of the City of Turlock responded unanimously as follows:

R1. and R2.

“NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby adopt the response letter provided by Police Chief Robert Jackson to the Civil Grand Jury regarding Case 14-25GJ and authorize the City Clerk to provide verification of such adoption to the Civil Grand Jury.”

The 2014-2015 SCCGJ is satisfied that the Turlock City Council responded to the findings and recommendations of the 2013-2014 SCCGJ report and responded within the time frames stipulated by California Penal Code Section 933(c).

## **Modesto Chief of Police**

In a letter dated July 9, 2014 the Chief of Police of the City of Modesto responded in agreement to findings F3 and F4 of the report rather than recommendations R3 and R4. The 2014-2015 SCCGJ believes that the responses given are nevertheless essentially responsive to the recommendations.

The 2014-2015 SCCGJ is satisfied that the Modesto Chief of Police has responded to the findings and recommendations of the 2013-2014 SCCGJ report within the time frame stipulated by California Penal Code Section 933(c).

## **Modesto City Council**

The 2014-2015 SCCGJ has no record of a response from the Modesto City Council; therefore, the 2014-2015 SCCGJ is unsatisfied with the Modesto City Council’s lack of compliance with California Penal Code Section 933(c).

## **APPENDIX A**

### **California Penal Code Section 933(c)**

“No 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 elected 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. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.”

## **APPENDIX B**

### **California Penal Code Section 933.05**

“ (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.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some

decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.”

## **APPENDIX C**

### **California Penal Code Section 919(b)**

“The grand jury shall inquire into the condition and management of the public prisons within the county.”

## **APPENDIX D**

(City of Patterson response dated September 18, 2014 follows.)



## City of Patterson

1 Plaza  
P.O. Box 667  
Patterson, California 95363  
Phone (209) 895-8000

*Received and  
Reviewed 9-26-14  
Judge Begen*

September 18, 2014

RECEIVED

OCT 01 2014

Civil Grand Jury

The Honorable Loretta Murphy Begen, Presiding Judge  
Stanislaus County Superior Court  
P.O. Box 3488  
Modesto, California 95353

**Re: Response to 2013-2014 Stanislaus County Civil Grand Jury Report #14-06C**

Dear Judge Begen:

We are writing on behalf of the City of Patterson (the "City") with regards to the 2013-2014 Stanislaus County Civil Grand Jury report on Case #14-06C, involving the City ("Report"). The City thanks the Stanislaus County Civil Grand Jury ("Grand Jury") for the time and effort it dedicated to investigating and reporting on these issues. While we do not agree with every finding and recommendation made by the Grand Jury, we understand that the Grand Jury serves an important purpose in ensuring that local governments within Stanislaus County are operating in an open, fair and efficient manner. We appreciate this opportunity to respond and welcome any additional questions that could help to clarify these matters. Please find our responses to the individual findings and recommendations of the Report below.

**I. Finding F1 and Recommendation R1.**

**A. Finding.**

"The City Council violated the Brown Act by not listing street addresses that were available, and not listing names of negotiators."

**B. Recommendation.**

"The City Council, as required by the Brown Act, should list the street address as well as

1

the APN's of properties being considered for sale or purchase. When negotiating for the sale or purchase of property, negotiator(s) and legal entities involved should be disclosed."

**C. Response.**

The City wholly disagrees with the finding. The City acknowledges that it described real property under negotiation by its Assessor Parcel Number ("APN") rather than its street address in closed session descriptions on seventeen (17) agendas between May 2012 and September 2013. However, the City disagrees that this is a violation of the Ralph M. Brown Act (the "Brown Act"). Government Code Section 54954.5 provides safe harbor language that may be used to describe closed session items on the agenda. The beginning of Government Code Section 54954.5 states:

For purposes of describing closed session items...the agenda *may* describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in *substantial compliance* with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

The model language provided in this code section is not mandatory. Further, the code expressly states that the City will not be in violation of the Brown Act if it substantially complies with the model description. (Government Code Section 54954.5). The model language for describing real property negotiations is as follows:

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**Property:** (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

**Agency negotiator:** (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

**Negotiating parties:** (Specify name of party (not agent))

**Under negotiation:** (Specify whether instruction to negotiator will concern price, terms of payment, or both)

Because the Report does not mention specific dates for the alleged violations, it is difficult for the City analyze the agendas of concern for compliance. The City reviewed all of its

agendas during the relevant time period (May 2012 to September 2013) and made the following findings:

| Meeting Date               | Method of Property Description  | Were Negotiators Listed? |
|----------------------------|---------------------------------|--------------------------|
| September 17, 2013         | NO REAL PROPERTY CLOSED SESSION |                          |
| September 9, 2013          | NO REAL PROPERTY CLOSED SESSION |                          |
| <b>September 3, 2013</b>   | <b>APN</b>                      | <b>Yes</b>               |
| August 20, 2013            | NO REAL PROPERTY CLOSED SESSION |                          |
| July 23, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| July 23, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| July 22, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| July 16, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| July 16, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| July 9, 2013               | NO REAL PROPERTY CLOSED SESSION |                          |
| July 9, 2013               | NO REAL PROPERTY CLOSED SESSION |                          |
| <b>July 2, 2013</b>        | <b>APN</b>                      | <b>Yes</b>               |
| June 25, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| June 18, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| June 11, 2013              | NO REAL PROPERTY CLOSED SESSION |                          |
| June 4, 2013               | NO REAL PROPERTY CLOSED SESSION |                          |
| May 23, 2013               | NO REAL PROPERTY CLOSED SESSION |                          |
| <b>May 21, 2013*</b>       | <b>APN</b>                      | <b>Yes</b>               |
| <b>May 7, 2013</b>         | <b>APN</b>                      | <b>Yes</b>               |
| <b>April 16, 2013</b>      | <b>APN</b>                      | <b>Yes</b>               |
| <b>April 2, 2013</b>       | <b>APN</b>                      | <b>Yes</b>               |
| <b>March 19, 2013</b>      | <b>APN</b>                      | <b>Yes</b>               |
| <b>March 5, 2013</b>       | <b>APN</b>                      | <b>Yes</b>               |
| <b>February 19, 2013</b>   | <b>APN</b>                      | <b>Yes</b>               |
| <b>February 12, 2013</b>   | <b>APN</b>                      | <b>Yes</b>               |
| February 5, 2013           | NO REAL PROPERTY CLOSED SESSION |                          |
| <b>January 22, 2013</b>    | <b>APN</b>                      | <b>Yes</b>               |
| <b>January 15, 2013</b>    | <b>APN</b>                      | <b>Yes</b>               |
| December 18, 2012          | NO REAL PROPERTY CLOSED SESSION |                          |
| December 4, 2012           | NO REAL PROPERTY CLOSED SESSION |                          |
| November 29, 2012          | NO REAL PROPERTY CLOSED SESSION |                          |
| <b>November 20, 2012</b>   | <b>APN</b>                      | <b>Yes</b>               |
| <b>November 13, 2012**</b> | <b>APN</b>                      | <b>Yes</b>               |



|                           |                                 |            |
|---------------------------|---------------------------------|------------|
| October 16, 2012**        | NO REAL PROPERTY CLOSED SESSION |            |
| <b>October 2, 2012*</b>   | <b>APN</b>                      | <b>Yes</b> |
| <b>September 18, 2012</b> | <b>APN</b>                      | <b>Yes</b> |
| September 4, 2012         | NO REAL PROPERTY CLOSED SESSION |            |
| August 21, 2012           | NO REAL PROPERTY CLOSED SESSION |            |
| August 21, 2012           | NO REAL PROPERTY CLOSED SESSION |            |
| August 14, 2012           | NO REAL PROPERTY CLOSED SESSION |            |
| July 30, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| July 24, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| July 17, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| July 10, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| June 19, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| June 12, 2012             | NO REAL PROPERTY CLOSED SESSION |            |
| June 5, 2012              | NO REAL PROPERTY CLOSED SESSION |            |
| May 15, 2012              | NO REAL PROPERTY CLOSED SESSION |            |
| May 3, 2012               | NO REAL PROPERTY CLOSED SESSION |            |
| <b>May 1, 2012</b>        | <b>APN</b>                      | <b>Yes</b> |

\*Two properties listed

\*\* Meeting Cancelled

During the relevant time period, real property negotiations appeared on the closed session agenda seventeen (17) times. For every time real property negotiations appeared on the closed session agenda: (1) the property was described by its APN; and (2) the negotiators were listed.

While the model language recommends describing property by its street address, it also mentions that an APN is an acceptable alternative. The City is not required to mimic the model language exactly and, by listing the applicable APNs, the City was in substantial compliance with the Brown Act.

The Brown Act model language also recommends agencies name the agency negotiator and the negotiating party. In all seventeen (17) instances the agenda description listed the City Manager as the agency negotiator and listed the other negotiating party. As such, the descriptions substantially complied with the Brown Act requirement.

Lastly, it should be noted that the City Council could in no way be found to have violated the Brown Act since staff, and not the Council, is responsible for preparing the agendas. Again though, City also disagrees that staff violated the Brown Act for the reasons set forth above.

While it is not included in the Report finding, the Report also voiced concerns about oral reports prior to adjournment into closed sessions, which the City would like to address. In order to discuss real property negotiations in closed session, the City must meet its notice requirements under the Brown Act. Aside from the agenda requirements noted above, the City must hold a public session prior to closed session where the real property and negotiator are identified. *Kleitman v. Superior Court*, (1999) 74 Cal.App.4<sup>th</sup> 324 at 331.

As shown on the City's agenda, the City holds open session meetings prior to its closed session meetings. Prior to adjourning into closed session, the City's Mayor reads the closed session items appearing on the agenda. These agenda descriptions include the real property of interest and the negotiators. Further, the Brown Act requirement that the City orally announce the items to be discussed in closed session can be satisfied by "merely referring to the relevant portion of the written agenda for the meeting." California Attorney General's Office, *The Brown Act: Open Meetings for Local Legislative Bodies*, 4<sup>th</sup> Ed. (2003) p. 23. The City Council has met its reporting requirements by reading agenda items prior to adjournment.

#### **D. Implementation.**

The City has implemented Recommendation R1. Going forward, the City will list the street address of a property that is subject to a closed session meeting on real property negotiations, when a street address is available. Additionally, to the extent the City will continue to disclose negotiators on the agenda for closed session real property negotiation discussions.

### **II. Finding F2 and Recommendation R2.**

#### **A. Finding.**

"The City Council has not shown a sense of urgency in approving minutes of council meetings. City Administration acknowledged the lack of attention to publishing City Council meeting minutes in a timely manner."

#### **B. Recommendation.**

"The City Council should approve previous meeting minutes at the beginning of each City Council meeting. The City Administration should follow up to see if improvements in reporting and information access have been made."

#### **C. Response.**

The City wholly disagrees with Finding F2. There is no legal requirement regarding when and how City Council minutes must be published or approved. The City clerk is only required to "keep a correct record of its proceedings." Government Code Section 36914. Roberts Rules of Order is not binding upon the City but can be a good resource for determining traditional meeting procedure. With regards to approving minutes, Roberts Rules of Order simply states, that, if minutes are not normally approved at the next meeting, the secretary should note the date that the minutes were approved at the end of the minutes. Roberts Rules of Order Revised, 4<sup>th</sup>, Article X, Section 60. Robert's Rules of Order does not require or suggest that meeting minutes should be approved at the next meeting.

The City is committed to creating an accurate and informative record of the City's business. As a result, City staff must dedicate considerable time to drafting, reviewing and revising minutes. As such, City Council minutes may not be finalized immediately following a meeting. Additionally, the City Council must thoroughly review minutes to ensure their accuracy. This review also requires dedication of time. To avoid inaccuracies in the minutes, the approval process is not as fast as would be ideal. However, limited City resources curtail the City's ability to dedicate as much resources to the creation of the minutes as the City would like. Still, the City is committed to approving minutes as swiftly as possible. The fact that City Administration has had limited resources to dedicate to publishing minutes does not mean the City is not publishing and approving minutes as quickly as it is capable.

#### **D. Implementation.**

The City will partially implement Recommendation R2. As discussed above, the City has limited resources to dedicate to drafting accurate and informative minutes quickly. The City will continue to endeavor towards improving and streamlining this process. Additionally, the City will follow up to see if improvements to information access have been made as discussed in greater detail in Finding F4.

### **III. Finding F3 and Recommendation R3.**

#### **A. Finding.**

"Videos of City Council meetings have not been available in a timely manner."

#### **B. Recommendation.**

"Videos of City Council meetings should appear within two business days, similar to the reporting procedures of other cities in the region."

**C. Response.**

The City wholly disagrees with Finding F3. There is no requirement in the Brown Act, or in any other state law, that the City post video recording of its City Council meetings online. The Brown Act does state that any audio or video recording that the City makes of an open public meeting is subject to disclosure under the California Public Records Act. The California Public Records Act does not require a City to create a record that does not exist. The CPRA only requires the City to make records available to the public, it does not require that the records be available online. There are no state laws which state that a recording of a meeting must be posted within two (2) business days of a meeting. Further, the City has contracted with an independent third party, Greg Barbosa, to provide video recordings of the City Council meetings. Mr. Barbosa records each meeting, broadcasts it on a local cable channel, and posts the video online. In the experience of City staff, Mr. Barbosa generally posts such videos within one (1) day of the City Council meeting. However, because Mr. Barbosa is an independent contractor, the City has little oversight regarding when the videos are posted.

**D. Implementation.**

The City will not implement the recommendation because it is not required by law or within the control of the City. However, the City will contact Mr. Barbosa and inform him of the recommendation contained in the Report and shall discuss ways to ensure that videos are consistently posted in a timely manner.

**IV. Finding F4 and Recommendation R4.**

**A. Finding.**

"City Administration acknowledged the lack of attention to publishing City Council meeting minutes in a timely manner."

**B. Recommendation.**

"The City Administration should follow up to see if improvements in reporting and information access have been made."

**C. Response.**

The City partially disagrees with this finding. As stated above, the City has no legal requirement regarding when and how City Council minutes must be published or approved. However, the City recognizes that there have been large time gaps between the occurrence of a meeting and the approval of minutes for the meeting. As such, the City intends to monitor the situation and look for ways to streamline the minute approval process.

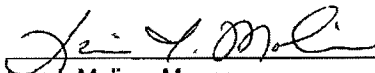
**D. Implementation.**

The City staff will chart the time it takes for City Council to approve minutes for each meeting occurring in the year following the date the Report was issued and shall report such data to the City Council after the tracking period has ceased.

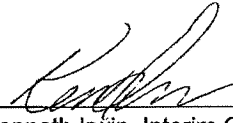
On behalf of the City, we would like to express our thanks to the Grand Jury. Please feel free to contact with of us should you have any further questions or any concerns.

Very truly yours,

Very truly yours,



Luis I. Molina, Mayor  
(209) 895-8005



Kenneth Irwin, Interim City Manager  
(209) 895-8015