

# Stanislaus County Civil Grand Jury

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**2012-2013 FINAL REPORT**

# 2012-2013 Stanislaus County Civil Grand Jury Final Report

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## STANISLAUS COUNTY CIVIL GRAND JURY

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

June 6, 2013

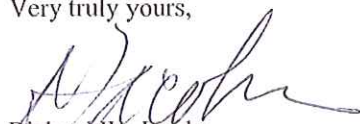
The Honorable Loretta Begen  
Presiding Judge of the Superior Court  
800 11<sup>th</sup> Street  
Modesto, CA 95354

Dear Judge Begen:

On behalf of the 2012-2013 Stanislaus County Civil Grand Jury, I am pleased to submit our final report. This document represents many hours of effort by dedicated jurors from various backgrounds. The panel worked together in a collegial manner and with a deep interest in issues facing the various governing bodies within our jurisdiction. Stanislaus County residents can justifiably be proud of this jury.

We would like to thank you, former Presiding Judge Ricardo Córdova and retired Court Executive Officer Michael Tozzi for your support of the Civil Grand Jury. Of course, our work would have been much more difficult without the invaluable assistance of our Administrative Assistant, Elisa Osnaya.

Very truly yours,

  
Richard W. Jacobs  
Foreperson  
2012-2013 Civil Grand Jury



## Superior Court of the State of California

COUNTY OF STANISLAUS

P.O. Box 3488  
Modesto, California 95354  
www.stanct.org

LORETTA MURPHY BEGEN, JUDGE

TELEPHONE  
(209) 530-3111

June 6, 2013

Mr. Richard W. Jacobs, Foreperson  
Stanislaus County Civil Grand Jury  
P.O. Box 3387  
Modesto, CA 95353

Dear Mr. Jacobs and Civil Grand Jury Members:

The 2012-2013 Civil Grand Jury is to be commended for the hard work it has done. The hands on investigative work and report writing are not easy. Your work will be rewarded in the changes made as a result of the recommendations contained in your final reports.

All of you have performed the tasks of the Civil Grand Jury with the commitment and detail we have grown to expect from our grand jurors. This county and its communities will be the benefactors of your diligence and hard work. All of you kept the Oath you took at the beginning of the year.

I want to thank all of you, on behalf of the Superior Court, for taking the time to serve your community as members of the 2012-2013 Stanislaus County Civil Grand Jury. I also want to give special recognition to Richard Jacobs for his leadership as the foreperson of the Civil Grand Jury. We owe all of you a debt of gratitude for your tireless and excellent work.

Sincerely,

Loretta Murphy Begen  
Presiding Judge

cc: Hon. Nan Cohan Jacobs, Assistant, Presiding Judge  
Rebecca Fleming, Executive Officer/Jury Commissioner

## 2012-2013 STANISLAUS COUNTY CIVIL GRAND JURY

Foreperson .....Richard W. Jacobs  
 Foreperson Pro Tempore .....Paul V. Kantro  
 Secretary ..... Rex R. Cline, Jr.  
 Sergeant at Arms .....Anthony R. Delgado

Antonio A. Belarmino	Turlock
Carl Blevins	Riverbank
Sandra C. Cash	Modesto
Jeffrey M. Chapman, III	Turlock
Rex R. Cline, Jr.	Modesto
Anthony R. Delgado	Modesto
Carlos G. Fierros	Patterson
Howard Grieshaber	Modesto
Randle B. Hawke	Hughson
Eudith A. Hendrix	Ceres
Richard W. Jacobs	Modesto
Paul V. Kantro	Modesto
Alex P. Kiehl	Turlock
Samuel H. Newnam	Modesto
Joanne M. Perry	Ceres
Larry A. Reberg	Modesto
Pamela A. Sudaria	Oakdale
Mark Vanlerberghe	Modesto

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Part 1: Responses to 2011-2012 Civil Grand Jury  
Final Report

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## Responses to the 2011-2012 Stanislaus County Civil Grand Jury Final Report

Section 933(c) of the California Penal Code provides:

"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 the recommendations pertaining to matters under the control of the governing body."

Notices were sent to all agencies or persons from which it was determined that a response was required for a specific section of the 2011-2012 Stanislaus County Civil Grand Jury (SCCGJ) Final Report. These responses were monitored carefully.

The following 11 cases were investigated by the 2011-12 SCCGJ:

Stanislaus Community Assistance Project (Case 12-03/04C)

Stanislaus County Sheriff (Case 12-06C)

Oakdale City Council Member (Case 12-09C)

Keyes Unified School District (Case 12-11C)

Modesto City Schools District (Case 12-13C)

City of Riverbank (Case 12-16C)

Stanislaus Consolidated Fire District (Case 12-17C)

Westside Healthcare District Board (Case 12-26C)

Stanislaus County Audit (Case 12-29GJ) – no response requested.

Stanislaus County Detention Facilities (Case 12-30GJ)

Of the eleven cases, 10 required responses. In most cases the respondents agreed with the 2011-2012 SCCGJ reports' findings and recommendations. This report addresses only the findings and recommendations with which respondents disagreed (Cases 12-06C, 12-17C, 12-26C and 12-30GJ). Complete responses to all reports are posted on the SCCGJ website:

[www.stanct.org/Content.aspx?page=Grand\\_Jury\\_final\\_reports](http://www.stanct.org/Content.aspx?page=Grand_Jury_final_reports).

Note: Text in **bold** is quoted from the 2011-2012 Grand Jury final report, and text in *italics* is quoted from official responses to that report.

### Stanislaus County Sheriff's Department (Case 12-06C)

**Finding 1. The [2011-2012] SCCGJ finds that the sheriff did not thoroughly and completely investigate violations to a standing court restraining order. This could be indicative of a lax attitude toward enforcing a restraining order within the Stanislaus County Sheriff's Department.**

Finding 1 Response:

*The respondent disagrees with the finding.*

*Deputies acted appropriately and professionally in all cases reported by "Person B." Unless there's probable cause to believe a crime has been committed and/or all elements of the crime*

*exist, deputies will not detain, cite or arrest. In these reported cases, there is no independent witnesses or corroborating evidence. The complainant, "Person B" refused to cooperate with Sheriff's investigators and "Person K" the complainant's husband is currently being prosecuted for an alleged criminal act as a result of this on-going dispute.*

**Finding 2. Although B's lack of full cooperation with the Sheriff's Department on some matters is troublesome, the [2011-2012] SCCGJ is of the opinion that this is not a basis to deny investigation and enforcement of a restraining order. These are separate issues. In this case a lack of proper enforcement has deprived both B and D equal protection under the law.**

Finding 2 Response:

*The respondent disagrees with the finding. All incidents were properly and thoroughly investigated.*

**Recommendation 1. The [2011-2012] SCCGJ recommends the Sheriff's Department institute a procedure to monitor multiple violations of a restraining order and give them a higher enforcement priority. Records of these violations should be available to a deputy in the patrol vehicle and continually updated. Multiple violations of restraining orders show disrespect for the law and could lead to consequences the restraining order was designed to prevent.**

Recommendation 1 Response:

*The respondent agrees in part and disagrees in part with the recommendation.*

*Multiple calls for services at the same location, alleged violations of court orders, reports filed by deputy sheriffs are all automated and electronically available from the mobile computers in the patrol cars. The Computer Aided Dispatch (CAD) system, the Integrated Criminal Justice Information Systems, (ICJIS) and restraining orders issued by the court are entered into Department of Justice (DOJ) database systems, all accessible by deputies. Given current demand for our services that require an immediate priority response to protect life and property, the investigation of alleged misdemeanor restraining order violations will remain a priority 3 call for service.*

Comments: The Stanislaus County Board of Supervisors defers to the sheriff's response. The 2012-2013 SCCGJ determined no follow-up was warranted, as points of disagreement were explained.



## Stanislaus Consolidated Fire Protection District (Case 12-17C)

**Finding 2:** The Board delegates a major portion of its governance responsibilities to the Fire Chief. The Fire Chief's list of responsibilities include the writing, review and approval of District policies and procedures, business and financial matters (budget and financial reports), personnel relations and issues with the Union. The 2011-2012 SCCGJ identified eight different job functions performed by the Fire Chief:

- 1) Chief Executive/Operations Officer
- 2) Policy Administrator
- 3) Clerk/Secretary of SCFPD Board
- 4) Chief Financial Officer and Board Treasurer
- 5) Chief of Oakdale and the Oakdale Rural Fire District
- 6) Human Resources/Personnel Administrator
- 7) Clinical Director
- 8) Office Manager

The scope of responsibility given to the Fire Chief is far too much for one person to handle and can lead to conflicts of interest and ineffective, biased decision making. The Board has abdicated its District governance responsibilities. This is a major impediment to the effective functioning of the District. Consequently, the Board is not in compliance with California Government Code Sections 61040 (e) and 61045 (g).

Finding 2 Response: (In part)

*Disagree. The Grand Jury is slightly misinformed regarding the Board's responsibilities and the Fire Chief's duties. The District utilizes a "general manager" concept which is the standard for the vast majority of fire agencies. The "General manger" (sic) or Fire Chief in this case, is responsible for ensuring the daily operations are being conducted efficiently and effectively and consistent with Board direction. The Fire Chief works directly for the Board and ensures the Board's vision and strategic goals are implemented. The board is not responsible for the day-to-day operations, but rather delegates these duties to professional staff members.*

Comment: The response continues stating why added responsibilities have been added to the Fire Chief's duties and gives an explanation why additional duties were assigned.

**Finding 7:** Administrative staff is not a part of Union MOU yet are filing complaints through the union.

Finding 7 Response:

*Disagree. All district employees have a stand alone grievance procedure and use it at their discretion, not Management's. The Union does not represent Administrative staff.*

**Finding 8:** The Board's Directors policy manual outlines the full set of responsibilities for the position of Clerk of the Board. The 2011-2012 SCCGJ finds this position has been delegated to the Fire Chief and the Board's own policies are not being followed.

Finding 8 Response (in part):

*Disagree. ... The duties required by the Clerk Position are being executed in compliance with the Board's policies and, without additional information regarding the basis for this Finding, a further response cannot be articulated. It is common among Fire Districts that the District Chief is also designated the District Clerk.*

Comment: The 2012-2013 SCCGJ requested and received a copy of the Board's policy manual and reviewed the section relative to Board members' duties.

**Recommendation 1: The 2011-2012 SCCGJ recommends that the Board read and implement all provisions of California Government Codes 61040-60148 and 61060-61070. The authority granted to the Board are the responsibility of the Board and may not be delegated to a paid employee.**

Recommendation 1 response:

*Recommendation has not been implemented and will not be implemented as the referenced sections are not applicable to the District, a fire protection district. The district does comply with the mandatory duties of AB 1234 which deals with many of the concepts referenced in the Community Services District Law, such as "ethics", conflict of interest, incompatible offices, etc.*

*The continued education of District Board Members regarding their responsibilities is paramount to the continued success of the District. As a point of clarification, the Board doesn't believe delegation has occurred beyond what is normal to ensure the successful operation of the District.*

**Recommendation 3: The Board must approve all District policies. Implementation of the approved policies is the responsibility of the Fire Chief.**

Recommendation 3 response:

*Recommendation will not be implemented.*

*While overarching policies are decided by the Board, the District's day-to-day policies/procedures already have an approved system for ensuring business operates effectively and efficiently. Staff members who routinely perform these duties are better prepared to develop sound practices regarding daily operations of the District. Board approval should be sought for financial, purchasing and long-term goal oriented policies.*

**Recommendation 7: The Administration Staff is not part of the Union MOU with the District. Since no in-house Human Resources position exists, any administrative staff personnel complaints should be referred directly to the Board and not through the Union grievance process.**

Recommendation 7 Response:

*Recommend not to implement: This is an issue to be determined by the District Administrative Staff as to who represents them, if anyone. Regarding complaints directed against the Fire Chief, a direct route to the Board may be appropriate. However, as is standard for fire agencies, there is a process for all other complaints and it follows the chain-of-command. The Board should not be involved directly with personnel issues, this is not in their scope of responsibilities. Doing so impacts the Board Members objectivity regarding disciplinary actions, opens Members up for possible liability and has the potential to be very costly way to handle personnel issues.*

Comment: The Stanislaus County Board of Supervisors defers to the Board of Directors' response, since the Board of Supervisors exercises no authority over Stanislaus Consolidated Fire Protection District Board of Directors.

The 2012-2013 SCCGJ determined no follow-up was warranted.

#### **Westside Healthcare District (Case 12-26C)**

**Finding 5. There is a conflict of interest in the proposed recommendation to implement a process where at the time of annual reviews each employee and board member will sign a document stating they have not been a victim of sexual harassment or are aware of any harassment issues going on. [2011-2012] SCCGJ finds that this proposed recommendation is an intimidating review process for the employees or board members.**

Finding 5 Response:

*The Board disagrees with this finding. I brought this issue to the Boards (sic) attention because The County of Merced requires every employee to complete and sign the same document every year during their annual performance evaluation. If this issue was in fact creating a "Conflict of Interest" then the County Counsel and the Personnel Director would not allow the continued use of this form.*

**Finding 6. The principal qualifications for assuming the role and responsibilities of the Ambulance Director position were living in the district, expected long-term commitment with the organization, and did not working for multiple companies which could lead to a conflict-of interest. Professionalism and supervisory skills were apparently not paramount in determining qualifications for the position as Director. [2011-2012] SCCGJ also finds that the candidates interviewed for the Directors position were current district employees.**

Finding 6 Response:

*The Board disagrees with this finding. As of the writing of this response, the Board has not hired a full time Ambulance Director to replace our last Ambulance Director. When our last full time Ambulance Director chose to leave the District, the Board of Directors added the duties and*

*responsibilities of the Ambulance Director to the Assistant Ambulance Director on an Interim Basis. This decision allowed the Board of Directors to determine what course of action to take in regards to hiring a full time Ambulance Director. In May of this year, the Board entered into a six month contract with the Ambulance Director from Patterson District Ambulance to take over the Administrative functions and assist Interim Ambulance Director in the daily operations of Westside Community Ambulance.*

**Recommendation 2. [2011-2012] SCCGJ recommends that WSHD board explore offering a stipend of some kind to future board members to attract and encourage candidates for future board positions.**

Recommendation 2 Response:

*The Board disagrees with this recommendation. The Board has addressed this issue many times including a recent consideration as a result of this recommendation. Every time this issue is addressed including the most recent consideration, the Board of Directors has unanimously rejected the issue of providing a Stipend to the Board of Directors.*

**Recommendation 3. [2011-2012] SCCGJ recommends that tighter controls be implemented to avoid personal conflicts-of interest as recognized in the make-up of the existing WSHD board relationships.**

Recommendation 3 Response:

*The Board disagrees with this recommendation. The Board of directors has never been accused of a Valid Complaint involving a Conflict of Interest between a Member of the Board of Directors and an Employee. We have always taken a very serious evaluation of any situation where a potential existed to create a Conflict of Interest as evidenced by the fact the Board of Directors has never found to have created a Valid Conflict of Interest as a result of our actions.*

**Recommendation 4. [2011-2012] SCCGJ recommends that an external party such as the California's Fair Employment and Housing Commission do further investigation into the sexual harassment and hostile work environment allegations. In addition, an anonymous survey should be administered to all employees and board members to help in determining the validity and scope of the allegations. The external investigation party should have background knowledge of human resources rules and regulations regarding sexual harassment and hostile work environment claims.**

Recommendation 4 Response:

*The Board disagrees with this recommendation. The Complaint of Sexual Harassment was initially investigated by our Ambulance director and ultimately turned over to an outside firm to conduct the investigation into the Allegations of Sexual Harassment. It is the position of the Board of Directors that the individual assigned to conduct the investigation did a very thorough and professional investigation into the Allegations of Sexual Harassment and has no intention of conducting any additional investigation into the Allegations of Sexual Harassment.*

**Recommendation 6. [2011-2012] SCCGJ recommends that the proposed policy requiring employees's (sic) to sign a document stating they have not been a victim of sexual harassment or is aware of any harassment issues going on at WSHD is coercive, intimidating, and could result in false statements. The proposed policy should be rescinded immediately.**

Recommendation 6 Response:

*The Board disagrees with this recommendation. The "Proposed policy" has not been implemented and as a result of the recommendation from the "SCCGJ" we are reviewing the "Proposed Policy" before implementing.*

Comment: The 2012-13 SCCGJ determined that no follow-up was warranted.

**Stanislaus County Jail, Public Safety Center, Probation Department  
And Juvenile Hall Inspections (Case 12-30GJ)**

In response, the Sheriff addressed errors in the respective narratives before responding to findings and recommendations.

**Stanislaus County Downtown Men's Jail Narrative:**

*In the narrative for the men's Jail, the Grand Jury reports that inmates are allowed two 3-hour exercise periods per week. The inmates are actually allowed a minimum of 3-hours of exercise in each 7-day period, which complies with regulatory standards established by the Corrections Standards Authority.*

*The report states that 28 deputies staff this facility. The correct number is 59.*

*The report states there are two holding cells for inmates who may be suicidal or are in danger to others, and deputies check them every 30 minutes. Inmates assigned to Safety Cells are checked twice every 30 minutes.*

*The report states that citizens can visit prisoners from 8:30-10:30 a.m. every day except for Wednesday. The actual visiting hours are 8:00-10:30 a.m., 1:00-4:00 p.m. and 6:00-10:00 p.m. every day except for Wednesday.*

*The Grand Jury reports being told there is an 85% recidivism rate for inmates, 15% higher than the recidivism rate reported by the California Department of Corrections and Rehabilitation for state prison inmates. This is statistically impossible given the number of people the Sheriff's Department has in custody as pre-trial detainees and sentenced inmates.*

*With the enactment of AB 109-Public Safety Realignment, we're closely tracking the recidivism rate. Since October 1, 2011, when the legislation was enacted, the recidivism rate is currently 16%. Granted this number only represents the first nine months since AB 109 was initiated and*

*will likely rise but nowhere near the 85% allegedly reported.*

**Finding 3. An exercise period of two 3-hour periods per week for prisoners does not seem to be adequate for the restricted space some prisoners are required to live in. This is especially true of prisoners that double up in cells designed for one man.**

Finding 3 Response:

*The respondent disagrees with the finding. Exercise periods are in compliance with the regulations governing detention facility operations, as mandated by the Corrections Standards Authority.*

**Recommendation 1. The suicide prevention procedures should be reviewed both in psychological evaluations of the prisoners and changes that can be made to cells that are used for at risk prisoners. The [2011-2012] SCCGJ observed that the cell used in the last prisoner suicide made it easy for a prisoner to stand on a bed and reach a horizontal cross bar that separated two cell segments. Prisoners are able to stand on a bed and wrap a bed sheet around the upper bars and have enough vertical space to hang them selves. It seems some modification can be made to these cells to make it more difficult for at risk prisoners to hang themselves in this manner. Title 15 Section 1046- Inmate Death requires that a team with specified composition review each in-custody death and submit a report to the CSA.**

Recommendation 1 Response:

*The respondent disagrees with the recommendation. The recommendation to change cell bars to reduce the risk of suicide is untenable. The structural design and configuration of the cell bars cannot be altered. Instead, the department utilizes heightened referrals to mental health staff, increased observations by uniformed staff and enhanced utilizations of beds at Public Safety Center for Mental health inmates to minimize the risk of suicide.*

*Per established policy, a team comprised of Adult Detention managers and Medical/mental health care staff conducts a review of each in custody death.*

*After the specific suicide noted in this report, the review team instituted a policy pertaining to inmates removed from the Safety Cell. With the modification, more frequent checks are made of inmates removed from the Safety Cell, in conjunction with follow-up clinical assessments. Inmates assigned to a Safety Cell are observed twice every 30 minutes, not the one time reflected in the Grand Jury's report. Outside of the Safety Cell, inmates are observed every hour.*

**Recommendation 2. As many prisoners as possible should be transferred to the Public Safety Center as new construction is completed.**

Recommendation 2 Response:

*The respondent partially agrees with the recommendation. As new construction is completed*

*and the beds are activated at the Public Safety Center, inmates will be moved as deemed appropriate by classification staff to maximize public safety, the safety and security of both staff and inmates and to comply with the security requirements of the inmates confined in our facilities. With the enactment of AB 109-Public Safety Realignment, Stanislaus County remains challenged to provide adequate jail bed space in order to retain serious criminal offenders in custody.*

*The expansion of inmate beds at the Public Safety Center will afford the department the opportunity to house inmates commensurate with their security needs; meets the demands of a growing population in the community and in our detention facilities but clearly will not be adequate to close the aging Men's jail.*

**Recommendation 3. The [2011-2012] SCCGJ recommends that exercise time be increased for prisoners.**

**Recommendation 3 Response:**

*The respondent disagrees with the finding. The facility is currently in compliance with Title 15 Standards adopted by the Corrections Standards Authority for inmate recreation. Any increase in exercise yard time would be untenable due to physical limitations of this aged facility, budgetary constraints to hire additional staff needed to supervise recreation activities and the increased security risks associated with additional inmate movement to and from the recreation yard.*

**Stanislaus County Public Safety Center Narrative:**

*The report states that 40 deputies staff this facility. The correct number is 79.*

*The report states that visiting hours are the same as the downtown men's jail. The actual visiting hours for the Public Safety Center are 8:00-11:00 a.m., 12:30-5:00 p.m. and 8:00-9:30 p.m. In the Minimum Unit, inmates visit on Saturday and Sunday only, from 7:15-10:15 a.m., 12:00-4:00 p.m. and 5:30-7:15 p.m. The PSC inmates have non-contact visits in booths but the Minimum Unit inmates have full contact visits.*

*The construction of 192 beds to replace those beds lost to a fire at the Honor Farm is scheduled to begin in August of 2012. Construction will not include expansion of the current Public Safety Center or the addition of "pods". Unit #2 will be constructed adjacent to Unit #1 or what's referred to as "Minimum Unit" and will also include programming space for educational and rehabilitative opportunities.*

*The last paragraph in this section refers to the \$80 million state grant the county received under the provisions of AB900 to construct new facilities. The Grand Jury referenced the addition of 384 inmate beds and a medical/mental health wing with 72 beds. They also referenced a "central control station" and the relocation of the "morgue" to the vacant Medical Arts Building in downtown Modesto. In fact, the Central Control/Booking Facility and Coroner's Division Facility are not funded by AB 900 but from other funding allocated by the County. All*

*project details including funding are a matter of public record as these projects have been approved by the Board of Supervisors.*

### **Stanislaus County Honor Farm Narrative**

*In the report, the Grand Jury referenced a fire that destroyed two of the inmate barracks and that prior to the fire the Honor Farm inmate housing capacity was 300. The capacity was actually 370 inmates.*

*The Grand Jury summarized the staffing at the Honor Farm as one supervisor, two compound deputies, one transportation deputy and one operations deputy. For clarification, this staffing is only for the day shift. On the Swing shift and the Graveyard shift, the facility also has a supervisor and two compound deputies. In total, there are 12 deputies and 4 sergeants assigned to the Honor Farm.*

#### **Recommendation 1:**

**The [2011-2012] SCCGJ recommends the Sheriff keep the Honor Farm open and functional even after the expansion of the Public Safety Center. The Honor Farm will give the County space for 86 inmates that may be needed until the ramifications of AB 109 are fully realized.**

Recommendation 1 response:

*The respondent disagrees with the recommendation.*

*Presently the Honor Farm houses 86 inmates in an outdated facility with major challenges to infrastructure and a very limited security design. Since the enactment of AB 109-Public Safety Realignment in October 2011, the inmate population has not only accelerated beyond the capacity of our detention facilities to house all the individuals who should be in custody, but the security level of these same inmates exceed the safety and security design of this aged facility.*

*In June 2010, a major fire destroyed two barracks or half of the Honor Farm inmate living units. The County successfully negotiated a settlement with the insurance provider and plans were developed to replace the beds lost in the fire with a modern design facility, to be located on the site of the existing Public Safety Center. This facility is currently scheduled to break ground in August 2012, with an estimated completion date of Fall 2013. The new facility will enable the department to house 192 inmates in a safe and secure environment and vacate the Honor Farm.*

*With the Board of Supervisor's approval of the Phase II plan under AB 109, 72 additional beds will be activated at the Honor Farm, resulting to the total inmate population of 158 inmates. When the new facility is completed next fall, the 158 inmates and all staff will be moved to that location, and we will realize a net increase in inmate beds from 158 to 192. Lastly when the new facility is fully activated, the County will have insufficient funding to support the staffing, resources and physical plant modifications needed to sustain the Honor Farm operation beyond that time frame. With the construction of replacement beds, the operation of the Honor Farm is no longer cost effective.*



Comment: The Stanislaus County Board of Supervisors agreed with this response. The 2012-13 review determined no follow-up is warranted, as the Sheriff's points of disagreement were explained.

**2011-2012 Continuity Committee Report  
(Case 12-28GJ Special Districts)**

The three following agencies did not respond to the 2011-12 SCCGJ report as requested.

Monterey Park Tract Community Service

Westport Fire District

Knights Ferry Community Service

The 2012-2013 Grand Jury recommends the 2013-2014 Grand Jury investigate Monterey Park Tract Community Service, Westport Fire District, and Knights Ferry Community Service to determine why responses have not been forthcoming and ensure timely responses from these and all agencies investigated in the future.

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Part 2: Participation in the Stanislaus County  
Annual Financial Audit Report

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**Stanislaus County Civil Grand Jury (SCCGJ)  
Participation In The Annual Financial Audit Report  
For Fiscal Year Ended June 30, 2012**

**ENTRANCE CONFERENCE – AUGUST 14, 2012**

- Eleven SCCGJ Members attended the entrance conference. The following were the key areas discussed:
  - This is the 6<sup>th</sup> year the current auditors have been contracted to perform their annual audit work.
  - The cost of the Financial and Single Audit is \$103,000.
  - There was some discussion on changing the Managing Partner in the audit firm for the FYE June 30, 2013 annual audit.
  - This audit is a Financial Audit only, and not an audit of any physical assets, etc. The auditors do review the policies and procedures, as well as engage in some internal controls testing.
  - Special District audits are tracked separately by the Auditor-Controller's Office.
  - The Redevelopment Agency (RDA) audit will be done for the former agency for the period July 1, 2011 through January 31, 2012. The audit of the Successor Agency will be for the period February 1, 2012 through June 30, 2012.

**EXIT CONFERENCE – APRIL 11, 2013**

- Ten SCCGJ Members attended the exit conference. The following were the key areas discussed:
  - All audits received an unqualified opinion, and there were no management comments submitted.
  - This was the first year there were no management comments or audit findings.
  - The Annual Financial Report showed a negative Unrestricted Net Asset balance of \$51,160,354 for 2012. The Auditor-Controller's office would have to research the individual items that made up that negative number and would be happy to get back to the GJ.
  - The Annual Financial Report showed a \$1,279,576 Net Extraordinary Loss for 2012. This was explained because of the dissolution of the RDA, the money had to be removed and transferred to the private trust.
  - There were no Adjusting Journal (accounting) entries needed to be made by the auditors.
  - The audit took nine months to complete primarily due to loss of staffing resources. The auditors explained that there is no required due date for the Audited Financial Statements. Due to lack of resources, the Internal Audit Division closed two years ago.

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Part 3: Oakdale Irrigation District (Case 13-01C)

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**OAKDALE IRRIGATION DISTRICT**  
**Case 13-01C**

**COMPLAINT**

The Stanislaus County Civil Grand Jury (SCCGJ) received this complaint on May 9, 2012, at the end of the 2011-2012 Grand Jury's term. The complaint was in regard to the procedure the Oakdale Irrigation District used to determine how best to replace a broken irrigation pipe line, specifically that it would require a 20 foot easement into the Complainant's property, instead of running the water line down the county road. The installation of a new irrigation line also would cause damage to a retaining wall that had been built with County approval and a fence and an old tree at the front of the property line. The Complainant asked the Grand Jury to investigate how the Oakdale Irrigation District planned to pay for damages and restore the property to its original condition.

**GLOSSARY**

Prescriptive easement—Is an easement that a public utility company may declare, even if the property owner(s) have not provided the utility with a formal property easement, in order to perform needed repairs.

Sleaving the pipe—is when a smaller pipe is placed within a larger one.

Stanislaus County Civil Grand Jury—Hereinafter referred to as the SCCGJ

**BACKGROUND**

On August 23, 1989 the Complainant was granted an encroachment permit, by the Stanislaus County Department of Public Works, to build a retaining wall and fence at the owner's expense to reduce property erosion. Under or near the retaining wall and fence, and running near or under an old tree on the property is an irrigation line. The irrigation line serves the Complainant's property and the property of neighbors down the hill from that property. The Oakdale Irrigation District did not originally install the irrigation line in question, and does not have written easements from the property owners along the line, but has been maintaining the line and doing repairs as needed for years. The Oakdale Irrigation District has determined after several unsuccessful repairs that the entire line should be replaced.

**APPROACH TO INVESTIGATION**

The method of the investigation by the SCCGJ included:

1. Conducting two site visits.
2. Interviewing the supervisory and engineering staff of the Oakdale Irrigation District, the Complainant and other property owners.

3. Asking the Oakdale Irrigation District (OID) to respond in writing with possible solutions they might consider for repair of the irrigation line in question.
4. Attending an OID Water Committee Meeting discussing possible options for repair of this irrigation line.

## **DISCUSSION**

### Site visitations:

SCCGJ members went out to observe the property on two different occasions. SCCGJ members observed the rock retaining wall, the fence, the gates and the large tree mentioned in the complaint and also observed the junction valves that converge with the main irrigation line for irrigation of the several properties involved.

### Discussions with the Complainant:

In discussions with the Complainant it was determined by SCCGJ members that changes to the irrigation line were first discussed at Oakdale Irrigation District Water Committee meetings in May of 2012 and that, at that time, no alternative ways to conduct the repair of the irrigation line were presented by the OID staff to the Complainant. The Complainant indicated that OID had put in a new 60-foot piece of pipe for pasture, but wants another 115 feet of the Complainant's property for additional pipe repair. The Complainant also noted PG and E had been taking measurements in front of the property after the May 2012 meeting. OID then put up signs that it was prepared to start work, but no work has yet begun. The Complainant had been told by OID that work would begin in January 2013. The Complainant also indicated that there is no formal easement on her property deed. The Complainant sent a copy of the 1989 Department of Public Works encroachment permit to the SCCGJ. This document allowed her an easement onto county property to build the rock retaining wall.

### Discussions with OID Staff:

The OID staff pointed out that they have made several repairs to the pipeline. The OID is still considering several options for replacement of the irrigation line. Possible repair options are sleaving, (putting a smaller pipe inside of the larger one), which OID staff indicated has been used in the past, but has many downstream and system impacts; or putting in a new pipe made of PVC. Several possible proposals would go to the OID Board to consider; after discussion with the homeowners. The OID staff pointed out that there is no current easement for the pipeline from any of the residents served by the pipeline. They would like to have water easements that allow access to the pipeline from all residents served by the pipeline.

OID staff pointed out that any proposal goes to the water committee before going to the OID Board. OID staff indicated that no final decision has been made, and that they would review repair options, but there was no money in the 2012 budget for the line's replacement. The replacement may have to wait until the third or fourth quarter of 2013. SCCGJ members were told the OID would not pay for added costs of land acquisition or road repair. OID staff also stated that they contract out engineering and review possible engineering options that are

provided by outside contractors. It was pointed out that shoring up land to prevent further damage is an added cost to be borne by the property owner.

In response to the Grand Jury request, OID provided a written discussion of alternative solutions to repair the irrigation line in question. The pros and cons of several alternatives are discussed in this document:

- Relocating the pipeline
- Replacing the pipeline with an open trench which would maintain the existing location of the pipeline
- Partial replacement in a new location and in the existing location
- OID easement along the county right-of-way and installation of a new pipeline, with abandonment of the existing pipeline.

The OID Water Committee Meeting attended by SCCGJ members:

Grand Jury members attended a Water Committee meeting of the OID, where the Complainant and neighbors were in attendance. At the meeting, both OID staff and residents agreed that several repair attempts to the pipeline have been unsuccessful. It was pointed out that due to the age of the pipe it was difficult to get new fittings that would not leak. The above options for repair were discussed, along with some others. It was pointed out by neighbors that despite previous repairs, flooding has occurred along the pipeline to property at the bottom of the hill the pipeline serves. This makes the property in that area unusable by the owner and has destroyed part of that owners' fencing. Both OID staff and the residents were seeking a permanent solution to repair the pipeline. The property owners were encouraged to find a solution they could all accept. OID asked for that solution and a permanent easement to do the repairs along the affected properties. No final decision was made to present to the OID Board at that time.

## **FINDINGS**

- F1. Both OID staff and the residents agree that the irrigation line in question does need a permanent repair or replacement.
- F2. Several other repairs have been attempted unsuccessfully. Leaking is still occurring and flooding at the bottom of the irrigation line continues to occur in the resident's property at the end of the irrigation line. The flooding represents a hazard to traffic.
- F3. The OID does not have a permanent easement to any of the properties along the irrigation line, but it appears they could invoke a prescriptive easement to do the repair, if necessary.
- F4. OID has presented several solutions in the written response to the Grand Jury, and at the Water Committee Meeting to the residents involved. Possible solutions include: skirting existing obstacles as much as possible, but some damage to the Complainant's retaining

wall, fence and tree may occur. The Water Committee also discussed looking into sleaving and into using PVC pipe.

- F5. Due to a lack of current available funding, no final decision has been made to present to the OID Board at this time. The residents at the Water Committee meeting wanted a permanent solution to the irrigation issue.
- F6. The OID Water Commission would like the residents to agree to give them permanent easements to the properties involved.
- F7. The OID staff emphasized the importance of doing a permanent repair in an economically feasible way.
- F8. After further legal investigation with the help of the staff in the Stanislaus County Counsel's Office, SCCGJ members determined that OID could do repairs without a formal easement on file; this is called a prescriptive easement. A prescriptive easement is an easement that a public utility company may declare, even if the property owner(s) have not provided the utility company with a formal property easement, in order to perform needed repairs.

## **RECOMMENDATIONS**

- R1. The Complainant and other residents are strongly encouraged to consider the options presented and discussed at the Water Committee meeting.
- R2. OID staff, the Complainant and other residents involved are encouraged to meet together to discuss which option will specifically provide a minimum of property damage, yet also provide a permanent solution to the leaking irrigation line, in a cost effective manner.
- R3. OID staff needs to provide all residents involved with a written timeline for the repair to occur, once funding becomes available.

## **REQUEST FOR RESPONSES**

Pursuant to Penal code section 933.05, the Civil Grand Jury requests responses from the following governing bodies:

- Oakdale Irrigation District Board

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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



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Part 4: Monterey Park Tract Community Services  
District (Case 13-02C)

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**Monterey Park Tract Community Services District  
Case #13-02C**

**COMPLAINT**

The Stanislaus County Civil Grand Jury received a citizen's complaint on May 29, 2012, regarding the Monterey Park Tract Community Services District (MPTCSD). The complaint alleged the MPTCSD held a public meeting on May 14, 2012, and conducted an invalid vote to raise water rates.

**BACKGROUND**

The MPTCSD is a water district in the unincorporated area of Stanislaus County, approximately 4.5 miles southwest of the City of Ceres. The MPTCSD was formed on May 29, 1984. It covers an area of approximately 31 acres and serves approximately 114 residents.

**APPROACH**

**Reviewed the following documents:**

- MPTCSD elections related material
- MPTCSD meeting minutes and agendas
- MPTCSD candidate and elections related material obtained from the Office of the Stanislaus County Clerk Recorder/Registrar of Voters.
- MPTCSD related documentation obtained from the Stanislaus County Board of Supervisors.

**Interviewed the following individuals:**

- MPTCSD representative
- Two representatives from the Office of the Clerk Recorder/Registrar of Voters.
- Stanislaus County Counsel's Office representative.

**DISCUSSION**

The Board of Directors for MPTCSD consists of five total positions. At the present time, there is one vacant board member position. Three board members are serving elected or appointed terms and one board member continues to serve on the board even though that member's term expired in 2009. This member was originally appointed by the Stanislaus County Board of Supervisors, to the MPTCSD board, in lieu of election, in 2007.

The expired term board member has not filed the necessary candidate documents to run for re-election, been officially re-elected, or been re-appointed to the board position by the MPTCSD or the Board of Supervisors since the term originally expired in 2009.

The Civil Grand Jury determined California State Election Code section 10507 most accurately applied to the MPTCSD board elections and appointment process.

Election Code 10507 states: "Except as otherwise provided in this part, the term of office for each elective officer, elected or appointed pursuant to this part, is for four years or until his or her successor qualifies and takes office."

The Civil Grand Jury then consulted the County Counsel's Office for its interpretation of Election Code 10507.

The County Counsel's Office interprets Election Code 10507 to mean that an official, regardless of whether or not the board member filed the necessary candidate re-election paperwork, continues in office until there is a successor who is elected, or appointed in lieu of election, to that position.

A meeting agenda dated September 2009, specifically addressed the need for appointments to the MPTCSD board because no candidates filed to run for a board member position.

In 2009, the Stanislaus County Civil Grand Jury investigated the MPTCSD based on the issue of vacant board member positions. The MPTCSD board attempted some corrective measures by requesting the Stanislaus County Board of Supervisors consider absorbing MPTCSD into the county. The request to the Board of Supervisors was made in the form of a Civil Grand Jury response to the then Stanislaus County Presiding Judge. Reference Civil Grand Jury Case #09-14C.

In December 2010, the MPTCSD sent a letter to the Board of Supervisors indicating the MPTCSD board had only three active board members and the board would be posting a notice in the Community Center, used for public meetings, advertising the two vacant board positions.

The Office of the Clerk Recorder/Registrar of Voters Office has also attempted to assist the MPTCSD. In May 2011, the office sent a letter to the MPTCSD board informing the board of the 2011 election and offered to assist prospective candidates with the filing of the necessary documentation.

## **FINDINGS**

- F1. The expired term Monterey Park Tract Community Services District board member appointed in 2007 continues until he or she resigns or is replaced by a successor through the election or appointment process.
- F2. A quorum did exist on the MPTCSD board during the meeting of May 14, 2012. The board member in question was legitimately serving a term in office.
- F3. Procedures for the MPTCSD elections have not always been followed.

- F4. The separate records maintained by the MPTCSD, Stanislaus County Board of Supervisors and the Office of the Clerk Recorder/Registrar of Voters made verifying the status of MPTCSD board members difficult.

### **RECOMMENDATIONS**

- R1. The MPTCSD and Stanislaus County Board of Supervisors should make MPTCSD board member candidate recruitment a priority to fill present board position vacancy(s).
- R2. The MPTCSD should develop and implement a record keeping system that is complete, secure and readily available.
- R3. The Board of Supervisors and Office of the Clerk Recorder/Registrar of Voters should convert existing hard copy paper files to searchable computer files as soon as financially feasible. The converted files should be available to county offices and the public as necessary and/or reasonable.

### **REQUEST FOR RESPONSES**

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

From the following governing bodies:

- The Monterey Park Tract Community Services Board of Directors
- The Stanislaus County Board of Supervisors
- The Stanislaus County Office of the Clerk Recorder/Registrar of Voters

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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Part 5: Stanislaus Community Services Agency  
(Case 13-11C)

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**Community Services Agency  
Case # 13-11C**

**COMPLAINT**

The Stanislaus County Civil Grand Jury received a citizen's complaint, dated August 13, 2012, alleging the Stanislaus County Community Services Agency (CSA) was changing disciplinary practices and unfairly targeting certain employees for expenditures of extended time off.

The complaint claimed the CSA was improperly calculating sick leave usage, arbitrarily disciplining employees for their sick leave usage and not adhering to established internal policies and procedures regarding sick time usage.

**GLOSSARY**

- CSA: Stanislaus County Community Services Agency
- LRP: Leave Restriction Plan
- FMLA: Family Medical Leave Act
- ESA: Employment Standards Administration  
(Division of the United States Department of Labor)

**BACKGROUND**

At the time of this complaint, the Complainant was an employee of the Stanislaus County Community Services Agency. During the course of the Complainant's employment, the Complainant began experiencing some physical difficulties, which resulted in a period of extended leave.

The Complainant was placed on a Leave Restriction Plan as a corrective measure regarding the Complainant's absentee rate.

The Stanislaus County Civil Grand Jury chose to investigate this complaint due to the potential for inconsistent implementation of written county policies and adverse affect on county employees.

The investigation commenced on September 19, 2012 and was completed on November 11, 2012.

## **APPROACH**

The Stanislaus County Civil Grand Jury conducted its investigation using the following methods:

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

- Complainant
- CSA supervisory staff

### **Reviewed the following documents:**

- Disciplinary action
- Employee Leave Restriction Plan
- Internal CSA e-mails printed to paper copies
- Employee/Union grievance procedure
- ESA complaint Denial Response Letter to Complainant
- Family Medical Leave Act
- Stanislaus County Employee Leave Restriction Plan
- Stanislaus County Employee Handbook
- Stanislaus County Community Services Agency Policies and Procedures regarding sick leave usage and periods of extended leave
- Stanislaus County Community Services Agency Absenteeism Percentage Worksheet
- Community Services Agency interdepartmental e-mails printed to paper copies
- Stanislaus County Leave of Absence Request Form
- Stanislaus County Certificate of Health Provider (CHCP form)

## **DISCUSSION**

According to the Complainant, the Leave Restriction Plan was unnecessarily imposed because the physical difficulties were beyond the Complainant's control. The CSA leave policy allows for a maximum of 470 hours of leave time during a one year period. The Complainant claimed to have used only 472 hours of leave time during a one year period. The Complainant felt that not only were the sick/extended leave hours improperly calculated, the Complainant only

exceeded the maximum level of allowable sick/extended leave hours by two hours, making the implementation of the Leave Restriction Plan unwarranted. The Complainant felt this action was an attempt by CSA supervisory staff to specifically target the Complainant for disciplinary action.

During the course of the extended leave period, the Complainant was required to provide specific medical documentation and a Stanislaus County Leave of Absence Request Form to supervisory staff. The Complainant failed to provide any of the required documentation.

Based on documentation provided by the Complainant, the Complaint appears to have had two separate medical examinations and an evaluation by a physical therapist.

The Complainant claimed a diagnosis for the condition was eventually made. No documentation or time frame for the diagnosis was provided.

The Stanislaus County Community Services Agency policies and procedures are readily available to all employees. The policies and procedures are provided to employees through the Stanislaus County Employees Handbook as well as in PDF format on the Stanislaus County web site.

The CSA policies pertaining to sick/extended leave usage were in place prior to the extended leave period used by the Complainant.

CSA supervisory staff attempted to resolve the sick leave/extended leave period issue by meeting in person, and communicating via e-mail. CSA supervisory staff explained the sick/extended leave absence calculations which indicated the Complainant's absentee rate was approximately 13% during a one year period. CSA attendance policy requires an employee to be placed on a leave restriction plan when an employee's absentee rate exceeds 9% during a one year period. The CSA supervisory staff then attempted to implement a Leave Restriction Plan as a corrective measure to address the Complainant's calculated absentee rate.

The Complainant refused to comply with the leave restriction plan and refused to sign any corrective measure documentation stating the Complainant would seek resolution through a union grievance procedure.

The Complainant filed a grievance with the union however the union declined to pursue the grievance.

The Complainant filed a complaint with the Employment Standards Administration. The ESA declined to investigate and so informed the Complainant by letter.

The Complainant did not file a Worker's Compensation claim.



## **FINDINGS**

- F1. The Stanislaus County Community Services Agency was not in violation of Stanislaus County Employee Policy or Procedures regarding the Complainant's sick leave or extended leave usage.
- F2. The Stanislaus County Community Services Agency provides, or makes available, all policies and procedures to employees.
- F3. The Complainant's Leave Restriction Plan was properly implemented based on existing CSA policies.
- F4. The Complainant failed to comply with existing CSA policies and procedures regarding sick leave or extended leave usage by not providing the required medical documentation to supervisory staff during the extended leave period.

## **RECOMMENDATIONS**

No recommendations at this time.

## **REQUEST FOR RESPONSES**

No request for responses at this time.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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Part 6: City of Oakdale Measure "O" (Case 13-12C)

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**City of Oakdale Measure "O"**  
**Case # 13-12C**

**COMPLAINT**

The Stanislaus County Civil Grand Jury received a citizen's complaint on October 12, 2012, regarding the City of Oakdale Mayor and unnamed City of Oakdale government employees. The complaint alleged the City of Oakdale improperly implemented an Oakdale sales tax increase. The tax increase measure (Measure "O") was misrepresented to voters and subsequently enacted based on the voting results of the November 2011 ballot.

**APPROACH**

There were no interviews conducted during the course of this investigation.

The following documentation and information was reviewed:

Oakdale City Council meeting minutes

News articles of a local Oakdale newspaper

Oakdale City Manager Analysis of Measure "O"

Oakdale City Ordinance #1202 (Formerly Measure "O")

Oakdale, November 2011, ballot measure results

State of California Revenue and Taxation Code sections 7285.9-7285.92

**BACKGROUND**

Measure "O" was proposed to the Oakdale voters as a one half-cent sales tax increase to financially maintain the current level of city services. The additional funds generated by the ballot measure would be administered and collected by the California State Board of Equalization.

Measure "O" was proposed by the Oakdale City Council as a temporary revenue generating source that, if passed by voters, would begin on April 1, 2012 and end on March 31, 2015. The revenue raised would be paid directly to the Oakdale General Fund for use by the city.

The Stanislaus County Civil Grand Jury conducted an investigation of the complaint due to the possible improper implementation of Measure "O" and violation of State of California revenue and taxation laws.

## **DISCUSSION**

The investigation began in November 2012, and concluded February 2013.

Ballot Measure “O” was introduced at a regular meeting of the Oakdale City Council on June 20, 2011. The measure was formally adopted by the City Council on July 5, 2011, as City of Oakdale Ordinance #1202, and placed on the November 2011 ballot.

The measure required a two thirds majority vote of the Oakdale City Council to be adopted and placed on the November ballot. Measure “O” was passed by a unanimous vote of the Oakdale City Council. The measure received the needed simple majority vote to pass. Ballot Measure “O” received 55.38 percent of the vote in the November 2011 election.

The Oakdale City Attorney published an analysis of Measure “O” prior to the November 2011 voting process. The analysis indicated the Measure “O” one half cent sales tax would go into the Oakdale general fund and could be used for any municipal purpose. Municipal purposes include: police and fire protection, roads, sewer, water works, senior and youth programs, and other general functions and services.

Section 7285.9 of the Revenue and Taxation Code states: “The governing body of any city may levy, increase, or extend a transactions and use tax for general purposes at a rate of 0.125 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue. The governing body may levy, increase, or extend more than one transaction and use tax under this section, if the adopting of each is in the manner prescribed in this section.”

## **FINDINGS**

- F1. City of Oakdale City Council properly proposed and unanimously approved Ordinance #1202 (Measure “O”) adhering to the requirements of the California State Revenue and Taxation Code.
- F2. The voters approved Measure “O” (Ordinance #1202) by a majority vote of 55.38 % on the November 2011 ballot, adhering to the requirements of the California State Revenue and Taxation Code.
- F3. There is no indication of any misrepresentation and/or misconduct on the part of the City of Oakdale Mayor, members of the Oakdale City Council, or any employees of the City of Oakdale regarding Measure “O.”

## **RECOMMENDATIONS**

The Stanislaus County Civil Grand Jury has no recommendations concerning this complaint.

## **REQUEST FOR RESPONSES**

No responses requested at this time.

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

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Part 7: Stanislaus County Fleet Management  
(Case 13-13GJ)

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## **Stanislaus County General Services Agency Fleet Services Policy Case 13-13GJ**

### **COMPLAINT**

Pursuant to California Penal Code Sections 914 to 933.6, members of the Stanislaus County Civil Grand Jury (SCCGJ) elected to conduct an investigation of the Fleet Services Policy administered by the General Services Agency (GSA) of Stanislaus County.

### **BACKGROUND**

As a result of concerns expressed by the Board of Supervisors about the county's fleet services policy voiced in an October, 2012 newspaper article, the SCCGJ decided to inquire further into this policy. Their focus was primarily centered on the Vehicle Procurement and Salvage Policy sections of the overall policy.

### **APPROACH**

The SCCGJ used a two-level approach during its discovery process.

The first level involved reviewing the following documents:

1. Stanislaus County Vehicle Procurement, Maintenance and Replacement, A Cooperative Approach to Fleet Management dated October 2012.
2. Stanislaus County General Services Agency Salvage Policy dated June 3, 2008.
3. Stanislaus County General Services Agency Fleet Services 2013 (draft)
4. Stanislaus County General Services Agency Fleet Services 2013
5. County of Stanislaus General Services Agency Fleet Services Policy Approved by the Stanislaus County Board of Supervisors on March 12, 2013.

The second level involved interviews with County employees the SCCGJ felt would be uniquely qualified to discuss the particulars of the Fleet Services operation.

### **DISCUSSION**

As noted under the "Approach" heading above, SCCGJ's review of the applicable documents kept evolving as the fleet policy was being revised by the Stanislaus County Board of Supervisors. In addition the SCCGJ interviewed various county staff.

There are approximately 850 vehicles in the County, with annual purchases of about 100 vehicles per year, averaging \$30,000 per vehicle.

For the purposes of this report the content of Fleet Services Policy has been paraphrased as follows:

- Each County Department Head is responsible for administering the basic Fleet Services Policy and developing regulations for that department's on-call employees, if any.
- Department heads compare the cost difference between private vehicle, GSA Fleet Service Motor Pool vehicle, a department-owned vehicle, and rental from a County-contracted agency for trips greater than 100 miles one-way. Rate comparison information relating to motor pool, rental, and personal vehicles may be obtained from the GSA-Fleet Services web site. The Department Head may approve any mode of vehicle travel; however, reimbursement will be based on the lowest cost option. The mode of vehicle travel is at the Department Head's discretion.
- The County of Stanislaus maintains an automobile pool for authorized County employee travel. Requests for use of an automobile from the GSA Fleet Services Motor Pool by an authorized driver are made to GSA Fleet Services by the Department Head at least one working day in advance of the planned trip, whenever possible. This GSA Fleet Services pool is comprised of different vehicle types. Sedans and passenger minivans have an 8-year life or 100,000 miles. The Fleet Manager may extend the life of a County vehicle on a year-to-year basis so long as the vehicle is safe and reliable, and meets all required emission standards.
- All County vehicles are "owned" by the departments. Departments are responsible for vehicle replacement and related funding. Departments have the option of purchasing vehicles outright with existing capital, or financing through a municipal capital lease program, where the department would take ownership of the vehicle at the end of the lease, from three to five years.
- All vehicle funding is planned by the Department Head upon consultation with Fleet Manager, and approved by the Board of Supervisors at Proposed Budget. The Fleet Manager will standardize proposed acquisitions to the extent practicable, and provide associated cost estimates. The Department Head will then indicate to Fleet Manager whether the vehicle is to be purchased using department appropriations or through a municipal lease. A requesting department may not submit additional requests during the year but may modify its original request as part of the final budget process.
- All disposals of Stanislaus County-owned vehicles must be facilitated by Fleet Services, which will work directly with the Purchasing Agent. Prior to disposal of any vehicle, Fleet Services Division evaluates the vehicle for usage in other County departments. This may result in transfer of the asset to another department, without compensation to the originating department.
- County general-purpose vehicles with low usage (less than 6,000 miles annually) may be rotated within the department's fleet to offset higher usage vehicles to maximize vehicle



utilization. Underutilized vehicles are evaluated by the Fleet Manager to confirm the need and to consider a reduction in the department's fleet size. County Vehicles determined to be no longer needed are returned to Fleet for reassignment or for disposal.

The following information is the result of staff interviews:

**Stanislaus County General Services Agency Feet Services  
Potentially Underutilized Vehicles as of November 30, 2012 – SUMMARY**

<b>NUMBER OF <u>VEHICLES</u></b>	<b>AVG. <u>MILEAGE</u></b>	<b>AVG. <u>AGE/YRS.</u></b>	<b>AVG. <u>MILES/YR.</u></b>
94	27,674	6.2	4,385

During the interview process, it also was stated that centralizing vehicle purchases and repairs would result in cost savings.

**FINDINGS**

- F1. Staff reductions have caused some vehicle underutilization.
- F2. Centralized vehicle procurement would provide more control over vehicle costs. Stanislaus County is reviewing San Joaquin County Fleet Management procedures, which has centralized vehicle purchasing, to see which elements of their system may be applicable to Stanislaus County.
- F3. Currently Stanislaus County cannot easily transfer vehicles among its departments. Centralization allows easier movement of vehicles to the departments that use that type of vehicle.
- F4. When the County had centralization, it was more efficient. The County was better able to provide support services to meet each department's vehicle needs. Decentralization has added more layers to the vehicle procurement process, thus making vehicle purchases more difficult.
- F5. There are in excess of 90 county vehicles underutilized. (See schedule above).

**RECOMMENDATIONS**

- R1. The Stanislaus County Board of Supervisors should consider the pros and cons of their current decentralized support structure vs. a more centralized approach, across all departments.
- R2. The Board of Supervisors should consider centralizing the purchase and repair of all County vehicles by exploring procedures employed by surrounding counties.

R3. The county should review ways to minimize vehicle “down-time.”

R4. A vehicle replacement/capital outlay fund should be used for the purchase of all county vehicles.

### **REQUEST FOR RESPONSES**

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:  
From the following governing bodies:

- The Stanislaus County Board of Supervisors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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Part 8: Stanislaus County Jail Facilities  
Inspection (Case 13-14GJ)

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**Stanislaus County Jail Facilities Inspection  
CASE # 13-14GJ**

**OVERVIEW**

Pursuant to California Penal Code section 919, members of the Stanislaus County Civil Grand Jury conducted its yearly inspection of the Stanislaus County Jail Facilities. The facilities inspected were the Stanislaus County Sheriff's Department Public Safety Center, 200 E. Hackett Rd., the Honor Farm, 8224 W. Grayson Rd., and the Downtown Men's Jail, 1115 "H" St.

**GLOSSARY**

PSC- Public Safety Center

MJ- Men's Jail/Court House Jail

HF- Honor Farm

California Title 15: California Department of Corrections and Rehabilitation regulations pertaining to jail standards.

AB109: California Assembly bill pertaining to state penitentiary inmate realignment/transfer to the county jails.

AB900: California Assembly bill supplemental to AB109. Requires the state to reimburse local agencies for certain costs they incur for adhering to state mandated guidelines

**BACKGROUND**

The inspection process began with the review of documentation related to the standards each facility is required to meet, a Grand Jury pre-inspection questionnaire submitted to, completed and returned by the Sheriff's Department, a pre-inspection interview with the Sheriff, and subsequent physical inspection of each facility by members of the Stanislaus County Civil Grand Jury.

The documentation review and pre-inspection interview process was conducted from approximately November 27, 2012 to January 4, 2013. The physical inspections were conducted from February 20, 2013 to February 25, 2013.

There are no State, County or Municipal mandates as to the required inmate to custodial/supervision staff ratios. Each individual county establishes its own ratio of inmate to custodial staff that best fits its needs.

Supervision ratios vary according to the security level of inmates and the individual housing areas/units. The Stanislaus County Sheriff's Department utilizes the average ratio of 86 inmates per custodial staff.

Public Safety Center: 200 E. Hackett Rd.

Approximate inmate population: 726

Opened approximately 1992. This facility was built as an improvement to previous facilities. It was designed and built to accommodate a broader spectrum of inmates. PSC currently houses both male and female inmates. Current inmate classifications include: Protective Custody, Mental Health, Medical Needs, Maximum Security, Medium Security and Minimum Security. The inmates, according to classification and gender, are housed in different facilities or housing units. The level of supervision for each housing unit is based on the classification of the inmates being housed.

Honor Farm: 8224 W. Grayson Rd.

Approximate inmate population: 86

Opened in 1955 as a minimum-security facility that contained a number of fabrication shops, minor farming and repair facilities staffed by inmates. The inmate work force and fabrication facilities supplemented the Stanislaus County employee work force with repair, food and equipment maintenance issues. This facility is scheduled to close, approximately June 2013, and the current 86 inmates moved to the PSC.

Men's Jail: 1115 "H" St.

Approximate inmate population: 396

Opened approximately 1952. Originally built as the primary Stanislaus County custodial facility. Currently houses men only and is the primary booking facility for county-wide male arrestees.

## **APPROACH**

The Grand Jury used a multi level approach during the inspection process.

The first level involved the review of the following documents:

- 2012 fiscal year Jail Operations Budget Report
- Jail Operations Staffing Levels
- State of California Corrections Standards Authority Inspection Report
- Stanislaus County Fire Marshall Inspection Report
- Stanislaus County Health Department Inspection Report

- Stanislaus County Health Care Services Audit/Performance Reports
- Stanislaus County Mental Health Services Policy
- Stanislaus County Infection Control-Quality Management and Communicable Disease Policy
- Inmate Grievance Policy and copies of inmate grievances
- Title 15

The second level involved submitting a questionnaire to the Sheriff prior to the pre-inspection interview. The questionnaire consisted of approximately 15 questions broken down into three different categories. The categories were listed as: Inmate Related, Facility Related and Health Services Related. The questionnaire was completed by the Sheriff's Department and subsequently returned to the Grand Jury.

The third level involved the physical inspection of the current and proposed jail facilities.

The following individuals were interviewed:

- \* Stanislaus County Sheriff
- \* Discussed inspection related topics with facility Command Staff, Facility Operations Sergeants and other on duty personnel during the course of the physical inspection process.

## **DISCUSSION**

The Stanislaus County Sheriff's Department appears to be one of the first County Sheriff's Departments, within the state, to have anticipated and prepared to receive state penitentiary inmates as they are released into county jail facilities pursuant to AB109.

AB109 and AB900 provide funding for the expansion of existing county jail facilities, for those counties that qualify, in order to accommodate the additional state penitentiary inmates they are receiving.

The implementation of AB109 has changed the population makeup of inmates at the county jail level. County jails now become burdened with the responsibility of housing a higher risk, more "institutionalized" inmate, for longer periods of time, in facilities not originally designed or built for that purpose. In addition, state penitentiary inmates are being transferred into the county jail inmate population at a rate approximately 34% above original state estimates.

The communities in each county are directly affected because the additional state penitentiary inmates add to already over-crowded county jail facilities. Inmates that would normally be incarcerated for lesser offenses are moved to an "Indirect" form of supervision

(Parole/Probation). Offenses that normally would have required indirect supervision are no longer prosecuted.

The Honor Farm facility is scheduled to close approximately June 2013, due to its inability to adequately house the more institutionalized inmates and the logistics involved in operating the remote facility. The approximately 86 inmates will be moved to the Public Safety Center.

## **FINDINGS (OVERALL)**

F1. The Stanislaus County Jail facilities are housing an increased number of higher risk institutionalized inmates, a larger percentage of mental health inmates, and a larger percentage of medical needs inmates. These inmates are being held for longer periods of time, in jail facilities not originally designed and built for that purpose. In addition, the jail facilities will be forced to upgrade the current facilities, as a requirement of AB109 funding, to include educational, general health, drug and alcohol rehabilitation, and anti-recidivism programs.

F2. Each jail facility passed all State/County independently required inspections and is operating at or above the state mandated performance levels.

The Stanislaus County Jail Facilities are operating at a performance level that meets and/or exceeds state correctional standards. The Stanislaus County Jail facilities, taking into consideration their age and the intent of their original design, were clean, well maintained and well managed.

F3. The total inmate population capacity, for all jail facilities combined, is 1,208. The overall average ratio of inmate to custodial/supervisory staff is 86 to 1. This average is based on a number of factors and is adjusted based on individual security levels and housing area requirements.

F4. Sheriff's Department custodial staff is currently moving approximately 300 inmates, combined, to and from court, per week, from the three jail facilities.

F5. The Stanislaus County Sheriff's Department currently has approximately 30 custodial staff and 4 custodial sergeant position vacancies.

The Sheriff's Department recruitment process has been unable to substantially reduce the number of vacant positions. Regardless of the number of applications received, the Sheriff's Department is currently experiencing a 1% success rate among Sheriff Department applicants. That translates to 1 out of every 100 applicants being capable of successfully passing the hiring and training process before a vacant position can be filled.

## **FINDINGS (SPECIFIC TO FACILITIES)**

### Public Safety Center:

- F6. The electronics in the Control Center are outdated and replacement parts/components are difficult and costly to obtain.
- F7. There is an absence of video surveillance in the main food preparation area, the loading dock, and the “Minimum Security” visitation area.

### Honor Farm:

- F8. This facility is outdated and unable to effectively house the current level of inmates. The site is remote making it difficult to operate and support logistically.

### Men’s Jail:

- F9. This facility is outdated and is used to house a higher percentage of high-risk inmates in cells with a smaller number of inmates per cell.

## **RECOMMENDATIONS (OVERALL)**

- R1. Ensure Stanislaus County is adequately prepared to address the burdening effect on Stanislaus County communities as a result of the placement of state penitentiary inmates into already over-crowded jail facilities.
- R2. Increase personnel recruiting efforts to fill present and future vacancies.

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

### Public Safety Center:

- R3. Upgrade the electronic systems in the Control Center.
- R4. Add video surveillance to the food preparation area, the loading dock area and Minimum Security Visitation area as a way to increase security, deter theft and the passing of contraband.

### Honor Farm:

- R5. Adhere as closely as possible to the proposed June 2013 closure date.



Men's Jail:

- R6. Accelerate any proposed renovations or planned new construction for a combined downtown jail/courthouse facility.

### **REQUEST FOR RESPONSES**

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

From the following individuals:

- Stanislaus County Sheriff

From the following governing bodies:

- Stanislaus County Board of Supervisors

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

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Part 9: Stanislaus County Schools (Case 13-18GJ)

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## **Stanislaus County Schools**

### **Case 13-18GJ**

As a result of the shooting at Newtown Connecticut, Sandy Hook School, the Stanislaus County Civil Grand Jury (SCCGJ) became even more aware of our school children's vulnerabilities.

These concerns caused the SCCGJ to inquire about potential improvements to the Stanislaus County Schools crises prevention and intervention programs and the schools safety programs. We started our inquiry with the Stanislaus County Office of Education (SCOE) where we were looking for answers to specific questions about the totality of Stanislaus school programs. Unfortunately we were unable to get our questions and concerns answered in the time available. This appears to be, in part, the result of the SCOE not having direct supervisory responsibility and control over all county schools.

We also have been unable to find a centralized point within the county that collects the data concerning school safety programs. Additionally, there appears to be no centralized organization within the county that reviews and approves all school safety and crises intervention programs. As result of the absence of a central control point, it may very well be that some school districts do not have programs that meet the totality of the State of California requirements.

The current SCCGJ's term ends on June 30, 2013 and therefore does not provide ample time to look into this matter further. It is recommended that the incoming 2013-2014 SCCGJ take up this issue and do a thorough review of all school districts and all schools within the county to insure adequate safety and crises response programs are in place and are being tested.

Additionally, it would be prudent to investigate and develop a recommendation for a county central control point for county school crisis prevention intervention and safety programs.

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