

CONTRA COSTA COUNTY GRAND JURY REPORT 0701

COMPLIANCE AND REVIEW COMMITTEE REPORT

The Contra Costa County Civil Grand Jury is impaneled annually to investigate city and county governments, special districts and certain non-profit corporations to ensure that their functions are performed in a lawful, economical and efficient manner. Findings and Recommendations developed from these investigations are contained in reports signed by the Grand Jury Foreperson and the Grand Jury Judge. Responses to these reports must be made within certain time constraints and in accordance with specific formats pursuant to 933 and 933.05 of the California Penal Code.

The following Compliance and Review Committee report was prepared by the 2006-2007 Grand Jury. A function of the Compliance and Review Committee is to request additional responses in cases where the original responses were deemed to be inadequate. Any such additional responses have been included in this report.

This year as last year, responses to last year's Grand Jury reports were posted on the Contra Costa County Grand Jury Website shortly after receipt and in their entirety. The entire responses often contain additional background information not required by law and not contained herein.

The Grand Jury believes it is important for future Grand Juries to continue to review these responses and to be vigilant in seeing that recommendations that have been accepted have been carried out. In this manner, the commitment and hard work of past and future Grand Juries will result in positive changes for the citizens of Contra Costa County.

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CONTRA COSTA COUNTY GRAND JURY REPORT 0602

Contra Costa County Capital Facilities Project How Are New County Buildings Justified?

Response from Contra Costa County Board of Supervisors

FINDINGS

County Finances

1. **In each of the last three fiscal years, the County's expenditures have exceeded revenue by amounts ranging from \$17 million to \$22 million. The County drew down reserve funds to cover the shortage.**

Response: Agree.

2. **On June 28, 2005, the BOS approved the 2005/2006 budget with a projected \$20 million deficit. At this rate of deficit spending, the June 30, 2006 unreserved fund balance will be approximately 3.5% of revenue -- below the 5% minimum level recently established by the BOS -- and will be exhausted before June 30, 2008.**

Response: Partially disagree. This statement was true as of June 28, 2005; however, the County did not continue the budgeted rate of deficit spending and, now, at year-end the unreserved fund balance is expected to be above the June 28, 2005 estimate.

3. **On May 2, 2006, the BOS approved a balanced budget for fiscal year 2006-2007 that includes a reduction of 200 staff positions and reductions in services provided by the County.**

Response: Agree.

Capital Projects

4. **The Capital Facilities Committee, a two-person committee of the BOS, oversees most major capital projects.**

Response: Partially disagree. The County Administrator's Office oversees the management of capital projects. The Board's Capital Facilities Committee recommends priorities for capital facilities funds to the Board of Supervisors and monitors the progress of major capital projects.

5. **All major capital projects require the approval of the BOS for each major phase, i.e., feasibility, design, and construction.**

Response: Agree.

6. **The BOS has not adopted a written policy regarding the justification and approval of capital facilities projects which addresses such basic questions as:**
- a. **How large does a project have to be before it is subject to review and approval outside a department?**
 - b. **What specific information is required for the justification for each phase of a project?**
 - c. **What is the approval process for each phase of a project?**

Response: Partially disagree. The Capital Facilities Committee of the Board of Supervisors reviews capital projects and makes recommendations to the Board. The Committee reviews all capital projects with an estimated project cost of \$1 million or more. The Committee has established criteria that it uses to evaluate and prioritize capital projects. The Committee has directed staff to develop a standardized format for presenting proposed projects, which will allow the Committee to receive information to evaluate projects in a consistent format. This reporting format will include information concerning the facilities need to be addressed by a proposed project, details of the proposed solution, and the proposed financing plan for the project.

Capital projects are evaluated on the basis of the project as a whole, rather than in individual phases. However, the Board or the Capital Facilities Committee may direct staff to provide status reports at the completion of various phases of a project to ensure that assumptions made at the outset of a project remain valid. For example, cost estimates made at the outset of capital projects are usually based on preliminary information concerning project design. These estimates may change once the design of the project is completed.

Capital projects typically involve multiple actions that must be reviewed and approved by the Board of Supervisors during the course of project completion, including the following:

- *Execution of contracts with architects and other project consultants*
- *Approval of findings required for compliance with the California Environmental Quality Act (CEQA)*
- *Authorization to seek construction bids*
- *Award of construction contracts*
- *Approval of financing*

These approvals occur at different stages of project development, allowing for Board review throughout the course of a project. For example, architects are usually hired during the early planning stages, CEQA findings are approved during the design phase, and construction contracts are approved at the completion of design. In addition, for larger projects staff typically provides

progress reports to the Capital Facilities Committee at the completion of each major project phase. Moreover, budgetary controls exist that prevent funds from being allocated or transferred to capital accounts without the approval of the County Administrator's Office and Board of Supervisors.

- 7. The Capital Facilities Committee has no written document, which outlines the scope of its activities.**

Response: Partially disagree. The Capital Facilities Committee was established during the Board's reorganization of officers on January 9, 2001. The purpose of the Capital Facilities Committee was defined in a December 20, 2000 memo from incoming Chairwoman Uilkema to the Board members, recommending that the Committee was to work closely with staff in order to develop a workable, long-term financing plan to meet the County's capital facilities needs. The specific activities of the Committee to accomplish this goal are determined by the Committee members.

- 8. In capital facilities project justifications, prior year fund balances and other funds, (e.g., the Criminal Justice Construction Fund) which could be used for many other purposes, are treated in financial projections as "free" funds and are used in the projections to reduce the amount of funding and related interest cost of the project.**

Response: Partially disagree. The County does accumulate funds over multiple years to apply towards large capital projects in the same way a home buyer might save money for a down payment on a house. This is a sound business practice. If by "free" funds, the Grand Jury means funds that are available at no interest charge (as opposed to borrowed funds), then the County agrees with this portion of the finding. Prudent planning for capital needs often involves a multi-year financing plan that may include the accumulation of funds in a capital account prior to construction. This approach reduces the amount of debt required to implement a project, which is [sic] turn reduces the ultimate project cost.

However, if "free" funds are meant to imply that the County has complete discretion over the use of the funds, then the County disagrees with that assumption. Some of the funds designated by the County for long-term facility needs are restricted to facility construction and maintenance purposes. For example, the Criminal Justice Facilities Construction Fund, which is derived from penalty assessments levied on court fines, may be used only for the following limited purposes: assisting any county in the construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems.

- 9. The District Attorney Building is partially justified by "improved productivity or reductions in net County cost", however even the best case justification shows an increase in net County cost over the life of the project. (The annual increase in net County cost would be another \$1 million, if "free" funds, as described in**

Appendix A, were not utilized in the justification to reduce the amount of lease revenue bonds required to fund the project and the related interest cost.)

***Response:** Agree. The criteria of improved productivity was used as part of the justification for the District Attorney project because the new building will allow the District Attorney staff who work in the downtown Martinez area to consolidate from multiple, crowded office spaces to one space located in close proximity to the Taylor Courthouse. This will improve productivity.*

The financial projections for the project involve a range of scenarios, some of which include a relatively small increase in net County cost. The District Attorney has indicated a willingness to absorb such a cost in the operating budget of his department, should it occur, so as to maintain cost neutrality to the project budget.

- 10. The justification for the District Attorney Building does not contain specific information or data that document the life/safety threats or overcrowding that exists or how the issues will be resolved by the new facility.**

***Response:** Partially disagree. Recent staff reports have not included detailed descriptions of overcrowding in the District Attorney's current office spaces because this condition was identified and described in the initial needs assessment and feasibility studies for the new facility performed in 2002/2003. The amount of office space allocated to the District Attorney's Office has not changed significantly in 10 – 15 years. Overcrowding in the District Attorney's current facilities is the result of incremental staff growth over this period without a commensurate increase in office space. The new building provides space for current authorized positions, including positions that are being held vacant due to budget cuts.*

- 11. The Clerk-Recorder/Elections Building is partially justified by “improved productivity or reductions in net County cost”, however the justification shows a \$64,000 increase in annual net County cost over the life of the project. (The annual increase in net County cost would be another \$150,000, if “free” funds, as described in Appendix A, were not utilized in the justification to reduce the amount of lease revenue bonds required to fund the project and the related interest cost.)**

***Response:** Agree. The offices of the County Clerk-Recorder and Elections Department are currently spread across six facilities in downtown Martinez. These are all older facilities that the County leases from private property owners. Several of these facilities have chronic maintenance problems that cause interruptions to department operations. The size of the current office spaces is insufficient to meet the needs of the Department.*

The proposed new facility for the County Clerk-Recorder and Elections offices would improve productivity by providing adequate office space for staff to efficiently conduct department business. The new facility would be built to modern construction

standards and would have highly functional building systems, which would greatly reduce operational disruptions caused by maintenance problems. The new facility would also result in the consolidation of staff from multiple sites into one facility, improving coordination among staff and increasing productivity.

The project does involve a modest incremental increase in building occupancy costs. The Board determined this incremental cost was justified by the benefits associated with the new facility.

- 12. The justification for the Clerk-Recorder/Elections Building does not contain specific information or data that document the life/safety threats or overcrowding that exists or how the issues will be resolved by the new facility.**

Response: Partially disagree. The project will mitigate crowded conditions and improve the productivity of the Clerk-Recorder's Office, as described in the County's response to Finding No. 11.

- 13. The justification for the Clerk-Recorder/Elections Building dated April 26, 2005 provides no explanation why the costs increased from the September 23, 2003 justification. (See Appendix A for more detail.)**

Response: Agree. The cost increase was due to refined cost estimation and construction cost inflation between the dates of the estimates.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends that the BOS:

- 1. Defer the District Attorney Building and all other non-emergency capital projects unless they reduce net County cost, until the County's unreserved fund balance in the General Fund is at least 5% of annual revenue -- the minimum level specified by the County's Reserve Policy.**

Response: Will not be implemented because it is not warranted. The Final 2006/07 budget is balanced in compliance with the Board's minimum reserve policy, including a sound financing plan for the District Attorney building. The Final Budget resulted from an open deliberation process that took into account planned capital projects. As a result of actions already initiated by the Board, it is anticipated that the County will reach its minimum unreserved fund balance goal by July 1, 2007. Deferring planned projects will only increase project costs and exacerbate strained financial resources.

- 2. Establish rigorous standards for justification of capital projects that include the following:**

- a. **Contents to be included in the justification for each phase of a project -- feasibility study, design phase, and construction phase.**
- b. **Information requirements for each prioritization criterion.**
- c. **Specific guidelines on the financial information and projections to be included which: (1) prohibit the use of prior years' savings and other sources of "free" money to determine the funding required and the related impact of a project on net County cost and (2) track and explain changes in project cost estimates.**

Response: Will not be implemented because it is not warranted. Capital projects currently go through a rigorous justification process that includes review and approval by the Capital Facilities Committee and the Board of Supervisors at multiple points during the course of implementation. The Capital Facilities Committee recently directed staff to develop a standardized reporting format for presenting proposed capital projects. This will ensure consistency in the type of information presented to the Committee in justification of new projects.

3. **Establish a capital project approval process for each of the three phases (feasibility, design, and construction) that specifies whose approval is required at various dollar thresholds.**

Response: Will not be implemented because it is not warranted. An approval process for various phases of capital projects already exists. With the exception of some small projects that are performed entirely "in-house" by County staff, capital projects typically involve the County entering into contracts with architects, contractors, and various other consultants beginning in the early stages of project development. The Board of Supervisors must approve these contracts. For larger projects, staff prepares periodic progress reports to the Capital Facilities Committee during the course of the project, providing an added level of review.

4. **Before proceeding with the District Attorney Building, re-evaluate the project justification using the recommended justification standards especially with respect to the financial projections (Recommendation #2c).**

Response: Will not be implemented because it is not warranted. The District Attorney project has already undergone a rigorous justification process that has included multiple staff reports and approvals by the Capital Facilities Committee and the Board of Supervisors.

APPENDIX A

District Attorney Building

On April 29, 2003, the BOS authorized a feasibility study of a new District Attorney building. The building consolidates four separate offices into one building adjacent to the courts in downtown Martinez. In 2005, construction documents for the new building were completed. On May 2, 2006, the BOS authorized issuance of a request for competitive bids for construction.

Total project cost was estimated as follows:

<i>Design phase</i>	<i>\$2,800,000</i>
<i>Construction</i>	<i>18,500,000</i>
<i>Furniture</i>	<i><u>1,200,000</u></i>
<i>Total</i>	<i>\$22,500,000</i>

The projected funding sources were as follows:

<i>Plant Acquisition Account</i>	<i>\$3,800,000</i>
<i>Criminal Justice Facility Construction Fund</i>	<i>4,000,000</i>
<i>Lease Revenue Bonds</i>	<i><u>14,700,000</u></i>
<i>Total</i>	<i>\$22,500,000</i>

The Plant Acquisition Account figure represents accumulations from the District Attorney's annual operating budget over the past few years.

The Criminal Justice Facility Construction Fund ("Criminal Justice Fund") is derived from court fines and fees. It may be used for "construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems."

The project justification (dated December 1, 2005) assumes that 25-year lease revenue bonds would be sold in mid-2006, at a rate of 6 percent interest, to partially finance the project. Three revenue streams are identified for this new debt service:

- 1. \$500,000 annually from the Criminal Justice Fund.*
- 2. \$213,340 annually from personnel reductions of two clerks and one office manager, due to consolidation of offices.*
- 3. \$366,608 to \$377,380 annually from occupancy cost savings, due to vacating the current offices at four different locations. This savings assumes that replacement tenants can be found.*

*Projection of Annual Costs and Savings
(in thousands)*

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012 & beyond</u>
<i>Net Debt Service</i>	\$847	\$1,049	\$1,082	\$1,117	\$1,156
<i>Savings:</i>					
<i>Criminal Justice Fund</i>	(500)	(500)	(500)	(500)	(500)
<i>Personnel Savings</i>	(213)	(213)	(213)	(213)	(213)
<i>Occupancy Savings</i>	<u>(366)</u>	<u>(370)</u>	<u>(373)</u>	<u>(377)</u>	<u>(377)</u>
<i>BEST CASE (sublease of existing facilities):</i>					
<i>Net cost or (savings)</i>	\$(232)	\$(34)	\$(4)	\$27	\$66
<i>POSSIBLE CASE (without subleasing):</i>					
<i>Net cost or (savings)</i>	\$(91)	\$111	\$143	\$179	\$107

Comments:

Without the \$3.8 million from the plant acquisition account and the \$4.0 million from the Criminal Justice Fund (both of which are used to lower the amount of lease revenue bonds required to finance the project from \$22.5 million to \$14.7 million), the annual debt service cost would increase by slightly over 50%, or more than \$500,000 per year.

In addition to \$4.0 million in up-front money from the Criminal Justice Fund, the project proposal contemplates using \$500,000 per year for 25 years from the Criminal Justice Fund to offset part of the lease revenue bond debt service.

The source of the Plant Acquisition Account is the General Fund. If this project were not undertaken, the funds would be available for any General Fund expenditure, which covers most County expenditures. Using Criminal Justice Funds (which, as previously indicated may be used for a wide variety of expenditures related to criminal justice) for this project makes them unavailable for other expenditures. Such projects will then have to be funded by the General Fund, thus increasing net County cost at that time. The proposal understates the net County cost by more than \$1 million annually -- \$500,000 from understated debt service cost and the \$500,000 of "free" funds from the Criminal Justice Fund.

Clerk-Recorder/Elections Building

On September 23, 2003, the BOS approved a project to replace and consolidate the County Clerk-Recorder and Elections facilities. At present, the functions of this department are located in six different buildings in downtown Martinez. This project involves a newly constructed office on Escobar Street in Martinez. On April 26, 2005, the BOS approved a specific lease agreement

with a purchase option, which, consistent with BOS policy that the County has an equity interest in facilities in which the County has long-term occupancy, the County is expected to exercise. Total purchase cost was estimated as follows:

	<u>Sept 23, 2003</u> <u>Projection</u>	<u>April 26, 2005</u> <u>Projection</u>
Building Purchase	\$8,900,000	\$10,994,000
Other Costs	<u>700,000</u>	<u>769,000</u>
Total	\$9,600,000	\$11,763,000

The projected funding sources were as follows:

General Fund Contributions	\$1,950,000	\$1,950,000
Micrographic Modernization Fund	2,000,000	2,000,000
Lease Revenue Bonds	<u>5,650,000</u>	<u>7,813,000</u>
Total	\$9,600,000	\$11,763,000

The General Fund Contributions figure represents accumulations from the County Clerk's annual operating budget over the past few years.

The Micrographic Modernization Fund receives revenue from filing and recording fees. The funds are to be used for micrographics and modernization of the Recorder's Office.

The project justification assumes that 25-year lease revenue bonds would be sold in mid-2006, at a rate of 6 percent interest, to partially finance the project.

Projection of Annual Costs and Savings

	<u>Sept 23, 2003</u> <u>Projection</u>	<u>April 26, 2005</u> <u>Projection</u>
<i>Current Facilities Lease Cost:</i>		
<i>Fiscal Year 2005-2006</i>	\$(612,019)	
<i>Fiscal Year 2006-2007</i>		\$(765,085)
<i>New Building:</i>		
<i>Debt Service</i>	386,500	604,071
<i>Maintenance/Utilities</i>	<u>220,000</u>	<u>225,000</u>
<i>New Building Subtotal</i>	<u>\$606,500</u>	<u>\$829,071</u>
<i>Increase (Decrease) in net County cost</i>	\$(5,519)	\$63,986

Comments:

This project justification indicates that it meets the “improves productivity or reduces net County cost” prioritization criterion. However, there are no projected staff reductions and the final justification shows an increase in annual net County cost of \$64,000.

The approach to financing the building purchase is similar to that used for the District Attorney Building. As such, it has a similar conceptual flaw. In this case, it assumes the use of \$1,950,000 of funds that originated in the General Fund to reduce the amount of lease revenue bonds required. Without these “free” funds the County would have to issue \$1,950,000 more lease revenue bonds and the annual net County cost would increase by more than \$150,000 due to higher debt service costs.

There is a similar question with respect to the \$2,000,000 to be obtained from the Micrographic Modernization Fund. There are some differences in that the Fund comes from revenue from County Clerk functions, the permissible uses are restricted much more than for the Criminal Justice Fund, and the \$2,000,000 is based on the square footage to be occupied by micrographic functions.

There is only a very limited explanation for the changes in project financial projections from September 2003 (for the BOS’s conditional approval) to April 2005 (for final approval). With respect to the \$2.2 million (23%) increase in cost, the April, 2005 presentation states that “project costs have been refined to incorporate all fixed tenant improvements, state-of-the-art climate control, mechanical, electrical, fire alarm and security systems.” No further details are provided. This does not explain why the costs increased. There are no comments on the \$117,000 (19%) increase in occupancy cost in 2005/2006 or on net County cost, which increased by \$69,500 and changed from a savings to a cost.

CONTRA COSTA COUNTY GRAND JURY REPORT 0603

**Antioch School District’s Caregiver Program
Do these Students belong Here?**

Response from Antioch Unified School District, Board of Education

FINDINGS

- 1. Approximately 21,200 students are currently enrolled within the District.**

Response: None.

- 2. Antioch Unified School District caregiver student enrollments by grade level as of March 2006:**

Grade	Caregiver Enrollments	Total Enrollments	Percentage of Caregivers
K-5	0	9,241	0%
Sixth	19	1,571	1%
Seventh	27	1,746	2%
Eighth	33	1,666	2%
Ninth	45	1,733	3%
Tenth	83	1,770	5%
Eleventh	70	1,668	4%
Twelfth	146	1,763	8%
Total:	423	21,158	2%

Response: None.

- 3. The caregiver, under the penalty of perjury, must execute an “Authorization Affidavit” (See Exhibit 1).**

Exhibit 1

Please complete this form ONLY if you are NOT the student's parent or legal guardian but you ARE the main caregiver for this student in residence with you.

CAREGIVER'S AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code. Instructions: Completion of items 1-5 and the signing of this affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 6-8 is additionally required to authorize any other medical care. The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: _____
2. Minor's birth date: _____
3. My name (adult giving authorization): _____
4. My home address: _____
5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see below for a definition of "qualified relative") _____
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
 I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver's license or identification card number: _____

WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature _____ Date: _____

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

TO CAREGIVERS:

1. "Qualified relative," for purposes of item 5 means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or it is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

Rev 6/03

Response: None.

4. The District has a program for identifying out-of-district students to prevent fraud. The program includes the following components:
- A telephone “tip” line.
 - A private investigator hired to assist in verification and status of the caregiver and/or child.
 - District personnel performing home visits to verify caregiver status.
 - District personnel riding buses from BART Pittsburg-Bay Point station to schools in an effort to identify out-of-district students.
 -

Response: None.

5. The results of this verification program are:
- The tip line has had 16 calls regarding 12 students since it was established in 2004.
 - In school year 2003/2004, the private investigator investigated fifteen students, twelve students in school year 2004/2005, and four students for the current year; the investigator looked into approximately 50-60 students over the course of the last five years.
 - District personnel perform approximately 220 home visits per year.
 - The number of false caregiver declarations detected were three, or less, for each school year since 1995; the students were removed from school.
 - Three students, who were not eligible to attend school in the District, were detected this school year.

Response: None.

6. There was no prosecution of caregivers who did not meet the legal requirements of being an eligible caregiver, or who provided false information on an affidavit, or who falsely claimed that a student lived in his or her home.

Response: None.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends the following:

1. Continue the District’s practice of identifying fraudulent enrollments.

Response: This recommendation has been implemented and we will continue our current procedures to identify fraudulent enrollments.

2. Continue removing those students in violation of the District residency requirements from the enrollment roll.

Response: This recommendation has been implemented and we will continue our current procedures to identify fraudulent enrollments.

3. Refer caregivers who did not meet the legal requirements of being an eligible caregiver, or who provided false information on an affidavit, or who falsely claimed that a student lives in his or her home to the District Attorney.

Response: Those individuals who do not meet the legal requirement of being eligible as a caregiver are denied enrollment consistent with Recommendation #1. Regarding the other two conditions set forth in Recommendation #3, I have consulted with the Office of the District Attorney. In order for their office to undertake a perjury prosecution for falsifying reports, they would require a police investigation which proved beyond a reasonable doubt that the person was guilty. Only then, would the District Attorney file a case. The crime of perjury is a felony, and can not be reduced to a misdemeanor.

The District Attorney's Office also informed us that, "perjury cases are rarely prosecuted in California due to the standard of proof required. As an example, perjury requires that we prove that the defendant willfully stated that the information given was true, even though the defendant knew it was false. A potential defendant may argue that the information was old or mistaken, or that the form was misunderstood, in order to overcome the element of the crime. Factual issues like these make perjury cases especially challenging to pursue."

Given the limited resources of the Antioch Unified School District and the Antioch Police Department, combined with the unlikely result of being successful through the court system, it appears to us that the second and third part of Recommendation #3 would not result in the offenders being prosecuted, and consequently would not act as a deterrent to future offenders. If you have any questions or concerns about our response, please feel free to contact me.

CONTRA COSTA COUNTY GRAND JURY REPORT 0604

Caulk The Cracks That Foster Children Fall Through! For the Sake of the Children

Response from Contra Costa Children and Family Services

FINDINGS

- 1. As of March 2006, there were 1640 Contra Costa County children in foster care and of those, 222 youths were in homes.**

Response: Agree, with the clarification that these 1,640 children represent dependent children under the supervision of the Employment and Human Services Department. There are also children in foster care and group homes under the supervision of the Probation Department and Children's Mental Health.

- 2. The County has 80 Social Workers actively working with foster youth. The Social Workers average about 23 cases each.**

Response: Agree.

- 3. AB 490 mandates that foster youth school placement be immediate, i.e. that education information and records be delivered to the school within two (2) working days of receiving a transfer request from a county placement agency. A comprehensive public school is to be the first placement option.**

Response: Agree.

- 4. The Social Worker is authorized to access the educational and medical records of foster youth for whom they are responsible.**

Response: Agree. Generally, social workers may access a foster child's school records without parental or court consent, but some medical records are considered privileged and require attorney or court consent for access.

- 5. Social Workers are authorized to facilitate timely school placement for foster children.**

Response: Partially disagree. While social workers are responsible for ensuring a child's educational needs are met, the caregiver (relative, foster parent or group home) is expected to enroll the child in the appropriate local school. In addition, timely enrollment is dependent upon the transferring and receiving schools to carry out their respective AB 490 responsibilities. The social worker coordinates and, when necessary, advocates with all of these parties to facilitate timely school placement.

6. Social Workers hired since the fall of 2005, had training on AB 490.

Response: Partially disagree. Staff Development records indicate all new worker trainees since May 2005 have been trained on the provisions of AB 490 as part of the Placement and Permanency Core Training.

7. Social Workers hired prior to fall of 2005, have had no formal training on AB 490.

Response: Disagree. Fifty eight staff attended a New Legislative Initiatives training session given by County Counsel in May 2004 and six attended the New Initiatives make-up training in December 2004. The provisions of AB 490 were part of that curriculum. Staff Development reports that the provisions of AB 490 are also included in the curriculum of Youth Training (attended by 15 staff) and the Bay Area Academy Preparing Youth training (attended by 21 staff).

8. Foster children often arrive at a placement without their current academic or health records.

Response: Agree.

9. Academic records not delivered in a timely manner result in inappropriate or delayed school placement.

Response: Partially disagree. AB 490 requires that when a foster child changes schools, the new school must immediately enroll the child, even if it [sic] certain documents usually required for enrollment (e.g., academic and medical records, immunization records, proof of residency) are missing or if fees or materials are owed to the prior school. [Educational Code 48853.5 (d)(4)(B)] There are occasions when social workers or educational liaisons have had to cite this code. While there are exceptional cases where school enrollment is delayed or inappropriate, for the most part, the schools are complying with their AB 490 responsibilities.

10. Health records not delivered in a timely manner result in repeating immunizations.

Response: Partially disagree. Since schools are required to enroll a foster child without the immunization record, given time, the records are generally located and re-immunization is averted. If a school-aged foster child is missing immunization records, it is generally because no one is able to find the records, not because she hasn't been immunized. Re-immunization has happened on occasion, but generally within the preschool population when they are first detained and their parents either do not have any records or refuse to share them.

11. Social Workers rely on the Contra Costa County Office of Education liaisons to facilitate the timely transfer of student records.

Response: Agree, with the clarification that the school district is responsible for the timely transfer of records. Office of Education liaisons are specialists in navigating the bureaucracy of the schools. Social workers use their assistance when problems arise in timely transfer.

12. **Social Workers rely on the group home provider to register the student and facilitate the transfer of student records.**

Response: Partially disagree. Social workers instruct foster care providers of all types (relatives, foster parents, and group homes) to immediately register the foster child in the appropriate school and to advise them of any difficulties. The school district must facilitate the transfer of student records.

13. **Social Work supervisors are not evaluating Social Worker implementation of AB 490 requirements.**

Response: Disagree. Social Work supervisors evaluate social workers on all aspects of their case management responsibilities. If a social worker had a pattern of not attending to the educational needs of children and youths in his/her caseload and if training and counseling the worker did not yield positive change, this would be reflected in the worker's evaluation.

RECOMMENDATIONS

The 2005-2006 Grand Jury recommends Children and Family Service take the following steps to have Social Workers get more actively involved in the new duties and responsibilities imposed on them by AB 490:

1. **Require Social Workers to take the primary role to ensure the timely school placement of foster youth.**

Response: Will not be implemented because it is not reasonable. The County agrees that the social worker has a pivotal and critical role in ensuring timely placement of foster children in school. However, it is important to understand that AB 490 assigns the responsibility for timely enrollment on the school district once the school is advised of the need for a foster child to be enrolled. The social worker can instruct the caregiver to enroll the child, can contact the school directly, and can involve the educational liaisons or the child's attorney if there are difficulties. However, if the districts or schools don't comply with the provisions of AB 490, the matter may ultimately need to be resolved in the Juvenile Court. The Employment and Human Services Department is committed to working cooperatively with schools and school districts to facilitate timely school placement.

2. Provide training to Social Work Supervisors and Social Workers on AB 490 duties and responsibilities.

***Response:** Has been implemented. New social worker training and other training curriculum include the requirements of AB 490. Additionally, within the coming Fiscal Year, the Employment and Human Services Department plans to offer new training on how to meet the educational needs of children, including AB 490 requirements. The new training will be supplemented with a copy of Frequently Asked Questions & Answers about AB 490, published by the California Foster Youth Education Task Force.*

3. Require Social Work Supervisors to monitor and evaluate Social Workers to make certain that Social Workers are implementing the requirements of AB 490.

***Response:** Has been implemented, and was reviewed with supervisors at the Management Operations Team meeting (attended by all child welfare supervisors and managers) in June 2006.*

4. Require Social Workers to verify foster children have been appropriately placed in school.

***Response:** Has been implemented. Further, the Employment and Human Services Department will reinforce the importance of timely school placement in the training and discussions with supervisors. We will also add an article to the Foster Family Newsletter to advise foster parents about the provisions of AB 490 that will also instruct them to immediately inform the social worker and/or the educational liaison if they encounter any difficulties enrolling foster children in school. This will assist us in identifying particular trends with specific schools or school districts.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0605

New Automated Drug Dispenser in County Jails Who Drugged Robot?

Response from Contra Costa County Administrator (CCCA)
Response from Contra Costa County Sheriff-Coroner (CCCSC)
Response from Contra Costa Health Services Director (CCHSD) ()*

** Response provided by CCCA*

FINDINGS

- 1. In September 2004, the County leased three ROBOT systems for five years at a total cost of \$971,082. Lease payments do not begin until the system is operational.**

CCCA Response: Agree. No payments on the lease have been paid to date.

CCCSC Response: Disagree. The Sheriff's Office has no information on the lease arrangements that Health Services has made to lease this system.

- 2. In February 2005, two ROBOTS were delivered, one for the Martinez Detention Facility and one for West County Detention Facility.**

CCCA Response: Agree.

CCCSC Response: Agree.

- 3. As of May 2006, none of the ROBOTS are operational.**

CCCA Response: Agree. It should be noted, however, that ROBOTS have since been installed in the Martinez Detention Facility, the West County Detention Facility, and the Juvenile Hall, and are partially operational. The system interfaces required to realize the full potential of the ROBOTS are yet to be completed. In accordance with the lease agreement, no lease costs will be paid on the ROBOTS until they are fully functional.

CCCSC Response: Agree.

- 4. A major reason for delays has been lack of management, coordination, and communication between the Sheriff and Health Services departments.**

CCCA Response: Disagree. The primary reason for the delay in implementing the ROBOTS has been the complexity in building interfaces among the three proprietary computer systems that are required to support the ROBOTS: the Health Services

Department pharmacy tracking system, the Sheriff's jail management system (identifies and locates inmates within the detention facilities), and the software that operates the ROBOTS. While delays can be frustrating, they are not unusual in this type of project and are, in this case, not an indication of lack of or poor management. Rather, they are a reflection of the complex procedural and technological issues that need time to be discussed and resolved.

CCCSC Response: Agree.

- 5. The County has not assigned an overall Project Manager to monitor and expedite this project.**

CCCA Response: Disagree. The Health Services Administrator-Detention serves as the project manager for the ROBOTS project.

CCCSC Response: Disagree. The Sheriff's office has no information of how the County is monitoring this project.

- 6. The original justification for leasing ROBOT anticipated the following annual savings and costs:**

Replacement of a Pharmacist with a Pharmacy Technician	\$89,468
Simplification of drug formulary	100,000
Savings (already realized without ROBOT)	\$189,468
Savings from not wasting drugs*	60,000
Total Savings	\$249,468
Lease cost for three ROBOTS	(\$194,216)
Medical system software/maintenance fees	(2,400)
Total Costs	(\$196,616)
Net County Savings	\$52,852

***Estimated savings from not wasting drugs ranged from \$60,000 to \$120,000 per year.**

CCCA Response: Agree.

CCCSC Response: Disagree. The Sheriff's office has no information on the annual savings or costs justifying this project.

- 7. The anticipated savings of \$189,468 for replacement of a pharmacist with a pharmacy technician and simplification of drug formulary have already been achieved without ROBOT being operational.**

CCCA Response: Agree. Analysis required for the implementation of the ROBOT systems revealed opportunities for additional savings by instituting procedural changes. As a result, when the ROBOT system is fully implemented, the County is expected to save even more money than was initially estimated.

CCCSC Response: Disagree. The Sheriff's Office has no information on the anticipated savings by implementing this project.

- 8. The County has incurred additional costs, which were not included in the original proposal, including at least \$60,000 in Health Services Information Technology staff time and an undetermined amount of time from Sheriff Information Technology staff.**

CCCA Response: Partially disagree. While the departments' technical staff has invested a considerable amount of time and coordinative effort toward implementing this project, the work was performed by existing staff that see to the many technical needs of the departments. No new staff was hired for this project and no additional staff costs were incurred.

CCCSC Response: Partially Disagree. The Sheriff's Office Technical staff has invested a considerable amount of time and coordination effort toward implementing this project. Sheriff's Office is unaware of any costs incurred by Health Services.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends that:

- 1. The Contra Costa County Sheriff-Coroner and Director of Health Services get all three ROBOT systems operational by September 30, 2006.**

CCCA Response: Has not been implemented, but will be when the County is assured that the ROBOT systems will be accurate, predictable, and reliable. Both the Sheriff and Health Services departments are committed to the implementation of the ROBOT systems and continue to work cooperatively to complete the project.

CCCSC Response: The Recommendation has not yet been implemented but will be implemented in the future. The Sheriff's Office is supportive of this project, and will continue to work with Health Services personnel to see this automated medication dispensing system functioning.

- 2. The Contra Costa County Administrator ensures future projects of this size (one million dollars) receive an accurate and comprehensive analysis of costs, savings, and implementation challenges prior to entering into purchase or lease contracts.**

CCCA Response: Has been implemented. This project did receive accurate cost and savings analysis. The unanticipated savings were the result of procedural changes beyond the initial scope of the ROBOTS project that increased the estimated benefit of the program.

CCCSC Response: No response required.

- 3. The Contra Costa County Administrator ensures that an overall Project Manager be assigned to track, monitor and take responsibility for projects of this nature, particularly when projects involve more than one County department.**

CCCA Response: Has been implemented. The Health Services Administrator-Detention serves as the project manager for the coordinated effort. As the project goals of the Sheriff's and Health Services departments are compatible and both departments are committed to the successful implementation of the project, a third-party project manager would be no more effective than the current project manager to reconcile the remaining technology issues.

CCCSC Response: No response required.

CONTRA COSTA COUNTY GRAND JURY REPORT 0606

County Ignores Retiree Health Costs The Financial Tidal Wave

Response from Contra Costa County Board of Supervisors

FINDINGS

Retiree Health Costs

1. **The County provides health insurance for active and retired employees and pays most of the cost, generally ranging between 80% and 98% of the total cost, depending on the insurance plan selected.**

Response: Agree.

2. **The County pays the same percentage of the cost for retirees as for active employees.**

Response: Agree.

3. **Five years of service qualifies an employee for retiree health benefits.**

Response: Agree, with the clarification that the total of five years of service may include service in a retirement system that has reciprocity with the Contra Costa County Employees' Retirement Association (CCCERA), and the retiree must have been enrolled in a County health plan prior to retirement or within two years of the start of the CCCERA pension.

4. **Between fiscal year 2001-2002 and the budget for fiscal year 2006-2007, the cost for retiree health insurance doubled – from \$16 million to \$32 million.**

Response: Agree.

5. **Like many other public employers, the County expenses the cost of retiree health benefits over the employee's retirement when they are paid ("pay-as-you-go"), rather than over the employee's service when they are earned ("accrual basis").**

Response: Agree.

6. **The Governmental Accounting Standards Board ("GASB") establishes standards for financial accounting and reporting for state and local governments.**

Response: Partially disagree. The Governmental Accounting Standards Board (“GASB”) establishes standards for reporting in financial statements that are to be audited by and opined upon by independent auditors. Internal reporting and reporting to the State of California is governed by the State of California “Accounting Standards and Procedures for Counties”, issued by the State Controller’s Office.

7. The County has elected to follow all GASB pronouncements.

Response: Agree.

8. GASB 45, “Accounting and Financial Reporting by Employers for Post-employment Benefits Other than Pensions” (“GASB 45”) provides an accounting standard that is analogous to the pension accounting standard and will result in a calculation and disclosure of an unfunded liability for retiree health similar to the one for pensions.

Response: Agree.

9. GASB 45 requires, no later than fiscal year 2007-2008, that the County:

- a. Disclose the unfunded liability for health benefits (and other post-employment benefits other than pensions) that have been earned by all active employees and retirees.**
- b. To the extent they are funded, increase its annual health care cost to include the normal cost of benefits as they are earned, plus an amount that amortizes the unfunded liability.**
- c. Disclose the funding policy and status.**

Response: Agree.

10. Although there is no current requirement to fund any of the unfunded liability, a directive requiring funding could be issued in the future or credit rating agencies could, in effect, require partial or full funding by their credit rating actions and practices.

Response: Disagree. The County has no knowledge of any such directive being considered by any entity having the authority to issue such a directive. Neither GASB nor the credit rating agencies have such authority.

The credit rating agencies have indicated that management of retiree healthcare liability will influence credit ratings for counties and other public agencies. Contra Costa County will not be unlike other cities, counties and other local government agencies, and the state that will likewise be required to report unfunded OPEB (other post-employment benefits) liability.

11. **An independent actuarial firm has recently completed an actuarial analysis as of January 1, 2006, for the County, including Fire Districts, under two discount assumptions: (1) 4.5%, which relates to the current pay-as-you-go method and (2) 7.9%, which would reflect a fully funded plan. These estimates are based on GASB 45 and are summarized below.**

Contra Costa County Retiree Health Costs
(in millions)

Discount Rate	Unfunded Liability	Annual Expense		
		Liability Amortization	Normal Cost	Required Contribution
4.5%	\$2,561	\$85	\$130	\$215
7.9%	1,420	47	55	102

Discount Rate: The interest rate used in developing present values to reflect the time value of money.

Unfunded Liability: The present value of benefits attributed to employee service as of January 1, 2006, less any assets held for the plan. Currently there are no assets held for the plan.

Liability Amortization: Principal portion of the Unfunded Liability, assuming a 30-year amortization period, to be amortized each year.

Normal Cost: The portion of the retiree health costs attributed to employee service for 2006.

Required Contribution: The Normal Cost plus the Liability Amortization for the year.

Response: *Agree.*

12. **The costs of retiree health benefits are offset to the extent they are reimbursed by the State and Federal Governments; however, there is uncertainty regarding the treatment of pre-funded amounts in determining these expense reimbursements.**

Response: *Partially disagree. Federal guidelines that establish the principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments, currently permit reimbursement of pre-funded OPEB costs.*

Chronology

13. **GASB 45 was issued in June 2004.**

Response: Agree.

14. **In September 2005, County staff received a preliminary estimate of the County's unfunded liability and annual expense under GASB 45.**

Response: Agree.

15. **At the February 28, 2006 Board of Supervisors' ("BOS") meeting, a very brief presentation of the preliminary estimate was made and an independent actuary was retained to perform a full retiree health actuarial valuation for the County, consistent with GASB 45.**

Response: Agree. The Board discussed this item for approximately 20 minutes on February 28, 2006 and the Finance Committee discussed this item for approximately 90 minutes at a public study session.

16. **At the May 2, 2006 BOS meeting, to achieve a balanced budget for fiscal year 2006-2007 (which included retiree health costs on a pay- as-you-go basis) the BOS approved a reduction of 200 staff positions.**

Response: Agree.

17. **At the May 4, 2006 meeting of the BOS Finance Committee, the Committee discussed the valuation authorized on February 28, 2006, and directed County staff and the actuary to:**

- **Analyze alternative changes to healthcare benefits.**
- **Analyze alternative funding approaches.**
- **Investigate unresolved issues including State and Federal cost reimbursements.**
- **Collaborate with the California State Association of Counties to seek information and solutions.**

No definitive action plan or timeline for these actions was established.

Response: Partially disagree. The Finding itself lists the action plan for the next step in the investigation. The required analysis and collaboration must occur before the next logical steps can be developed. An implementation timeline is dependent on the information obtained in the investigative stage. The Finance Committee directed staff to make progress reports to the Committee on a quarterly basis.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends that the BOS do the following:

1. **By July 31, 2006, establish a plan for addressing retiree health benefits and costs with timelines and responsibilities.**

Response: Will not be implemented because the recommendation is not reasonable. The Finance Committee and the Board of Supervisors have given direction to staff to develop a plan for addressing retiree health benefits, and this effort is currently underway. It is not reasonable to anticipate that such a plan could be completed by July 31, 2006. As more information is obtained, the general plan will be continually refined to establish a timeline and additional responsibilities.

2. **By September 30, 2006, review alternate approaches to:**

- **Health benefits, including retiree eligibility requirements, co-pays, deductibles, and employee contribution level.**
- **Funding amounts and timing.**

Response: Has been implemented. The recommended research is currently underway.

3. **By September 30, 2006, research the issues regarding State and Federal expense reimbursements of pre-funding retiree health benefits and the related dollar impact on current County programs.**

Response: Has been implemented. The recommended research is currently underway.

4. **Within this calendar year, establish short-term and long-term cost reduction strategies addressing questions such as:**

- **What approaches to cost containment are most appropriate?**
- **Should the County's contribution for retirees continue to be the same percentage as for active employees?**
- **Should a new tier for new employees be created with reduced retiree health benefits?**

Response: Will not be implemented because it is not reasonable. While the County recognizes the importance of establishing strategies to reduce County costs for retiree health care and is currently developing such cost reduction strategies, we do not believe the recommended action can be accomplished within this calendar year.

5. **Within this calendar year, establish short-term and long-term funding strategies for retiree health costs.**

Response: Will not be implemented because it is not reasonable. See the County's response to Finding No. 4.

6. **Fund at least half of the normal cost for retiree health benefits in 2007-2008 to reduce the rate of increase in the unfunded liability. (Based on 2006-2007 estimates, this would roughly double the annual cost for retiree health – from \$32 million to \$65 million.)**

Response: Will not be implemented because it is not reasonable. The County intends to fund some level of the normal cost for retiree health benefits in 2007/08, but the County does not have enough information at this time to commit to a specific plan or funding level for 2007/08. Determinations on OPEB funding must occur only after thorough analysis and investigation of all available options and their ramifications, and in consideration of impacts to County services and the public which relies on those services.

For example, the County must evaluate the merits of committing OPEB funding to an irrevocable trust, as recommended by GASB, or a more flexible designation. Each of these options and other options have unique benefits and drawbacks that must be assessed.

As stated in our response to Finding No. 10, it is impossible to know with any certainty how the rating agencies will react with respect to all public agencies and Contra Costa County in particular. We believe the rating agencies will look favorably on agencies that develop mitigation plans and demonstrate progress in implementing those plans. In this dynamic environment, however, the recommended permanent designation of millions of additional dollars to fund retiree health benefits would be precipitate.

CONTRA COSTA COUNTY GRAND JURY REPORT 0607

**County Outspends Income Four Years In A Row
Have the Supervisors Finally Kicked The Habit?**

Response from Contra Costa County Board of Supervisors

FINDINGS

1. **As shown in the table below, in each of the last three years the County's expenditures exceeded revenue by amounts ranging from \$17 million to \$22 million.**

**Contra Costa County General Fund Data For Years Ended June 30
(In millions)**

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Total Revenue	\$1,001.5	\$1,044.2	\$1,063.5
Expenditures/Transfers	<u>1,019.2</u>	<u>1,065.8</u>	<u>1,080.7</u>
Deficit	\$(18.2)	\$(21.6)	\$(17.2)

Response: Agree.

2. **These annual deficits have occurred despite relatively strong economic and demographic fundamentals in the County and a \$62.0 million growth in revenue from 2003 to 2005. Employment is high, sales taxes, property taxes, and special taxes are up, and there have not been any large non-recurring problems requiring County funds.**

Response: Partially disagree. The \$61.5 million growth between 2003 and 2005 included transfers from other funds and was neither all new revenue growth nor necessarily recurring.

3. **As shown in the table below, the unreserved fund balance in the County's General Fund decreased from \$115.7 million on June 30, 2002, to \$58.7 million on June 30, 2005, an average decrease of almost \$20 million per year.**

**Contra Costa County Unreserved Fund Balance as of June 30
(In millions)**

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Unreserved Fund Balance	\$115.7	\$97.5	\$75.9	\$58.7

Total Revenue	986.1	1,001.5	1,044.2	1,063.5
Fund Balance as % of Revenue	11.7%	9.7%	7.3%	5.5%

Response: Agree.

4. **On June 28, 2005, the Board of Supervisors (“BOS”) approved the fiscal year (“FY”) 2005/2006 budget with another \$20 million deficit, without analyzing its impact on the unreserved fund balance or on credit ratings. (At this rate of deficit spending, the unreserved fund balance will be approximately 3.5% of revenue on June 30, 2006).**

Response: Partially disagree. The County did not continue the budgeted rate of deficit spending and, now, at year-end the unreserved fund balance is expected to approximate the 5% minimum level recently established by the Board of Supervisors.

5. **At the County’s rate of deficit spending over the past four years, the unreserved fund balance will be exhausted before June 30, 2008.**

Response: Disagree; see response to Finding No. 4.

6. **Bond rating agencies (e.g., Standard & Poor’s and Moody’s) evaluate and rate the County’s credit worthiness. A lower rating means additional costs to the County and less money available to provide services for County residents.**

Response: Partially disagree. A lower credit rating could result in additional costs only if the County were to borrow additional money. It would have no impact on the debt service for existing bonds.

7. **On November 30, 2005, Standard & Poor’s revised its long-term rating outlook on the County to negative from stable, “based on a significant deterioration in the County’s reserves.”**

Response: Agree.

8. **On December 1, 2005, Moody’s downgraded the County’s long-term credit rating one notch (level), noting that the outlook remained negative and that “the County has taken no concrete steps to stem the erosion of the financial position.” The new rating of Aa3 places the County at the lowest of Moody’s three high quality ratings. A negative outlook indicates that the County’s trends point to another downgrade in the next year or so, moving the County from the high quality category to upper medium grade.**

Response: Partially disagree. A negative outlook with no improvement may lead to another downgrade. However, the County’s implementation of a plan to increase

reserves and revenues and decrease the growth of expenditures has significantly improved the County's fiscal outlook.

9. **Credit rating downgrades have both tangible and intangible (reputation) costs. It is estimated that the December downgrade could cost the County an additional \$225,000 if the County were to borrow \$25 million, and that a second downgrade could double this additional cost.**

Response: Agree

10. **At its October 25, 2004 and December 20, 2004 meetings, the BOS Finance Committee discussed establishing a Reserve Policy.**

Response: Agree, with the clarification that the Finance Committee discussed establishing a Reserve Policy on October 25, 2004 and December 5, 2005.

11. **On December 20, 2005, the BOS adopted a Reserve Policy, which resolved, in part, that:**

- a. **“Effective immediately, Contra Costa County shall strive to achieve a minimum unreserved General Fund balance of 5% of budgeted General Fund revenues.”**
- b. **“Until such time as the County has an unreserved General Fund balance equal to at least 5% of budgeted General Fund revenues, no less than \$2 million of year-end fund balance in any fiscal year shall be added to the appropriation for Contingency Reserve.”**
- c. **“Reserves may be drawn below the minimum level in order to address an unforeseen emergency, to fund a non-recurring expense, or to fund a one-time capital cost; but only following the adoption, by a four-fifths vote, of a resolution of the BOS specifying the circumstances that justify the invasion of the minimum reserve level.”**
- d. **“Should reserves fall below the established minimum levels, a request to utilize reserve funds must be accompanied by recommendations for restoring, within three years, minimum reserve levels (fiscal stabilization plan).”**

Response: Agree.

12. **The Reserve Policy sets the minimum reserve level at the bottom of the 5% to 15% range recommended by the Government Finance Officers' Association.**

Response: Agree.

13. **On December 27, 2005, the County Administrator instituted a hiring freeze on positions funded by General Fund revenue effective January 1, 2006.**

Response: Agree.

14. **On February 14, 2006, the BOS declared “the Board’s intent to adopt a FY 2006/2007 General Fund budget that balances annual expense and revenues, and that strengthens General Fund Reserves.”**

Response: Agree.

15. **On February 28, 2006, the BOS received its first report on retiree healthcare costs and liabilities. This report estimated the County’s unfunded liability for retiree healthcare costs in the \$1 to 2 billion range.**

Response: Agree.

16. **On May 2, 2006, the BOS adopted a balanced budget consistent with the resolution of February 14, 2006.**

Response: Agree.

17. **On May 5, 2006, the BOS Finance Committee discussed a recently completed actuarial analysis that estimated the County’s unfunded liability for retiree healthcare costs at between \$1.4 and \$2.6 billion.**

Response: Agree, with the clarification that the Finance Committee met on May 4, 2006.

18. **A number of important financial management practices common in the private sector are very limited or absent in the County as follows:**

- a. **Multi-year financial projections developed by top management, department heads, and the BOS.**
- b. **Rigorous capital project justifications (See Contra Costa County Grand Jury Report 0602 issued earlier.)**
- c. **Regular management reviews of departmental revenues, costs, and performance by top management, department heads, and the BOS.**

Response: Partially disagree. While management practices can always be improved or expanded, none of the practices described in the Finding are absent. The County Administrator’s Office performs multi-year financial projections, which are largely dependent on federal and state budget allocations and so are of limited value. Capital projects currently go through a rigorous justification process that includes review and

approval by the County Administrator, Capital Facilities Committee, and the Board of Supervisors, and is described in detail in the County's response to Grand Jury Report No. 0602. In the absence of regular management audits, which have been temporarily suspended due to budget constraints, the County Administrator annually conducts several performance and fiscal audits targeted at specific problems or issues, and has focused limited staff resources on Countywide policies and procedures that affect all County departments and programs. All County department revenues, costs, and fiscal controls are reviewed on a regular basis under the County Administrator's budget reporting and the Auditor-Controller's internal audit programs.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends that the BOS do the following:

- 1. Assure that in FY 2006/2007 expenses do not exceed revenue.**

Response: Has been implemented. The Fiscal Year 2006/2007 Adopted Budget balances annual expenditures and revenues. In the last six years, actual General Fund net County cost has been between \$37.4 and \$103.6 million less than the budgeted amount. Barring a natural disaster, the County's current fiscal review practices assure that actual General Fund net County cost will not exceed budgeted levels.

- 2. Bring reserves to the minimum level specified by the Reserve Policy by June 30, 2008.**

Response: Has been implemented. The County initiated strategies to build the reserve and anticipates reaching the minimum specified level by June 30, 2007, if not sooner.

- 3. Strengthen the Reserve Policy:**

- a. To require actions that are much more aggressive than simply adding a minimum of \$2 million to the contingency reserve, when reserves are below the minimum level.**
- b. To increase the minimum level to an amount greater than the minimum suggested by the Government Finance Officers' Association and in line with that of peer counties in California.**

Response: Has not yet been implemented, but will be implemented in the future. The County expects to achieve the 5% minimum reserve balance within the next 12 months. At the end of that time, and in conjunction with service needs and a Facility Life-Cycle Investment Program, the County will re-evaluate increasing the minimum

level to an amount greater than the minimum level suggested by the Government Finance Officers' Association.

4. Adopt an action plan to mitigate costs and fund the liability for retiree healthcare.

***Response:** Has been partially implemented and will require further analysis to be fully implemented. The Finance Committee has directed County staff to collaborate with California State Association of Counties to prepare an analysis of alternative changes to healthcare benefits, alternative funding approaches, and potential state and federal cost reimbursement. The required analysis and collaboration must occur before the next logical steps can be developed. An implementation timeline is dependent on the information obtained in the investigative stage. The Finance Committee directed staff to make progress reports to the Committee on a quarterly basis.*

5. Establish or strengthen routine financial management practices to mirror more closely those in the private sector by implementing the following:

- a. Multi-year financial projections developed by top management, department heads, and the BOS.**
- b. Rigorous capital project justifications. (See Contra Costa County Grand Jury Report No. 0602 issued earlier.)**
- c. Meaningful action-oriented reviews of departmental revenues, costs, and performance by top management, department heads, and the BOS.**

***Response:** Has substantially been implemented:*

- a. The County already performs multi-year financial projections and will continue to perform and refine them.*
- b. Capital projects already go through a rigorous justification process that includes review and approval by the County Administrator, Capital Facilities Committee, and the Board of Supervisors (See response to Contra Costa County Grand Jury Report No. 0602).*
- c. Meaningful action-oriented reviews of departmental revenues, costs, and performance already take place. Regular performance auditing will resume when fiscal and staff resources permit.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0608

**Contra Costa County Adult Detention Facilities
Try Walking in a Deputy's Shoes**

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the preparation or approval of this report.

Response from Contra Costa County Board of Supervisors (CCCBOS)

Response from Contra Costa County Sheriff-Coroner (CCCSC)

FINDINGS

- 1. All three County adult detention facilities have had an annual fire, medical/mental health, environmental/nutritional health inspections, conducted by CSA, and have passed each inspection. Any minor infractions have been addressed.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

- 2. All facilities were found to be clean and well operated, particularly the kitchen areas. All facility's kitchen food storage areas are locked (including knife storage) when not in use.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

- 3. Fire and evacuation drills are held on a regular basis at all facilities. This was last tested at the MCDF during the January 2006, heavy rains. The vehicle bridge over the creek was found to be unstable. In the event of flooding and instability of the bridge, detention management decided to have all inmates transported to the WCDF. Inmates had to walk out over the bridge to waiting transportation. The transfer of inmates was without incident. The bridge was repaired and the inmates returned.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

4. **As the MCDF is a campus-style facility, inmates must form lines outside when going to classrooms or dining/visitors' hall. During inclement weather, the inmates have no protective rain gear.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

5. **When individuals are first arrested, the detention staff in the intake area may not know their true identity or criminal record, and violent detainees may be placed in the general population. Individuals are either coming down or high on alcohol or drugs, this makes the intake area a dangerous phase of incarceration.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

6. **The detention facilities' daily average population for December 2005 was as follows:**

	MDF	WCDF	MCDF	Total
Male	655	683	103	1,441
Female	9	177	----	186
Total	664	860	103	1,627
CSA Capacity	695	1,104	256	2,055

CCCBOS Response: Agree.

CCCSC Response: Agree.

7. **MDF is near capacity. The problem is exacerbated by staff having to deal with gangs and gang disorder. As the inmate population increases and reaches capacity at each facility this may create more problems.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

8. **No deaths by Tasers were recorded at any of the three facilities. Deputies are following policy regarding the use of Tasers.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

9. **The Sheriff has 80 open positions, of which 60 are funded. From July 2005, through January 2006, the Sheriff hired 26 deputies, yet lost 46 deputies. New deputies are currently required to spend their first 33-35 months of service in the Custody Services Bureau (detention facilities) and serving as bailiffs in criminal courts.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

10. **Detention facility staffing and overtime hours for the months of December 2004 and 2005 are as follows:**

	MDF	WCDF	MCDF	Total
Full-time Staff	134	111	20	265
Dec 2004 Overtime Hours	2,221	1,563	456	4,240
Dec 2005 Overtime Hours	4,439	2,815	356	7,610

Detention facilities must provide 24/7 security. The shortage of personnel requires many hours of overtime, which can cause stress and burnout.

CCCBOS Response: Agree.

CCCSC Response: Agree.

11. **Many counties use Correctional Officers, who are responsible for overseeing individuals in detention facilities. They work under the direction of deputy sheriffs to maintain security and inmate accountability. They have no law enforcement responsibilities outside the institution where they work.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

12. **Correctional officers are not used in Contra Costa County detention facilities.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

13. **In October 1995, the Sheriff prepared a study regarding the use of Correctional Officers. The County took no action at that time.**

CCCBOS Response: Partially disagree. The proposal to utilizing correctional officers in the detention facilities was initiated in 1985. Since that time, several studies have been conducted: 1985, 1987, 1989, and 1995. As a result, the Sheriff

replaced or supplemented 59 sworn positions with civilian positions. Three new civilian job classifications were created for the Sheriff's Custody Services Bureau: Sheriff's Aide, Sheriff's Specialist, and Sheriff's Ranger. Additionally, two sworn Lieutenant positions were replaced with civilian manager/director positions.

CCCSC Response: Partially disagree. The feasibility of utilizing correctional officers began in 1985. Since that time, several studies have taken place; i.e., 1985, 1987, 1989, and 1995. As a result, the Sheriff replaced or supplemented 59 sworn positions with non-sworn employees. Several new classifications of employees were created to work in the Custody Services Bureau. These are Sheriff's Aide, Sheriff's Specialist, and [Sheriff's Ranger. Two Lieutenant (sworn) positions were replaced with civilian manager/director) positions (non-sworn).

- 14. As of January 2006, the Sheriff did not code incident reports so suicide attempts and Taser use statistics could be easily obtained.**

CCCBOS Response: Agree.

CCCSC Response: Agree.

RECOMMENDATIONS

The 2005-2006 Contra Costa County Grand Jury recommends the following:

- 1. The Sheriff and the County Board of Supervisors work together to alleviate capacity problems at MDF.**

CCCBOS Response: Requires further analysis. A Request for Proposals (RFP) is being prepared by the Sheriff's Office for the purpose of conducting a needs assessment study for the County's detention facilities. The study will analyze local trends and characteristics that influence planning assumptions about future corrections, population projections, staffing levels, and the job classification system.

CCCSC Response: The Recommendation requires further analysis. A Request For Proposal (RFP) is being prepared by the Sheriff's Office for purpose of a Needs Assessment Study for the Detention facilities. This Needs Assessment Study will analyze local trends and characteristics, which influence planning assumptions about future corrections, population projections, staffing levels, and the classification system.

- 2. The Board of Supervisors and the Sheriff update the 1995 Sheriff's study of the possibility of hiring Correctional Officers.**

CCCBOS Response: Will not be implemented because it is not warranted. In 1989, the Board of Supervisors created the Correctional and Detention Services Advisory

Commission. This commission was to advise the Board of Supervisors on current and proposed adult detention facility programs. This commission was specifically tasked to study “The Analysis of the Feasibility of Using Correctional Officers in the Detention System.” After studying the issue, the Commission made a strong recommendation to the Board to continue the policy of staffing the County detention facilities with Deputy Sheriffs (sworn), except for non-safety related functions.

The Commission Chair wrote:

“In 1985, the commission studied the Detention Staffing Analysis study prepared by the County Administrator’s Office, including responses from the Contra Costa Sheriff’s Office, the Taxpayers’ Association, Local One, and the Deputy Sheriff’s Association. After studying this latest analysis, dated January 18, 1989 by Hughes, Heiss and Associates, the commission found the two studies arrived at the same conclusion. Namely, that the risk of converting detention system staffing to correctional officers exceeds the benefit. Any direct cost savings may be short-lived because the trend throughout the State is for compensation parity between Deputy Sheriffs and Correctional Officers.

Indirect costs could also erode any savings, such as administrative personnel costs associated with the higher turnover rate resulting in additional staff to recruit, test, run background checks, and train correctional officers. Other arguments against the transition from deputy to correctional officers are:

- *Correctional officer staffing would institute a limited class of employment while reducing career opportunities for deputy sheriffs.*
- *Another department of County government would be created if the County separated the administration of the detention system from the Sheriff. This could make control and integration of the criminal justice system more difficult.” Adult Corrections has become even more complicated since this report was published. Contra Costa County has experienced an increase of gang, alcohol, and drug dependent inmates, as well as an increased population of inmates with mental health issues.*

The Detention system in this County is one of the best run systems in the state, doing more with less staff than neighboring counties. In recent years, the Sheriff has seen the population in the Martinez Detention Facility approach 900 and, yet, has managed to run a safe and secure facility. Contra Costa County has never had a court-imposed population cap on its adult detention facilities. In other counties, such caps have cost enormous sums of money.

While the County is always exploring opportunities for cost efficiency, it is essential that facility safety and security not be compromised by operating with personnel whose job qualifications do not match those required to effectively manage and operate the jail facilities.

CCCSC Response: *The Recommendation will not be implemented because it is not warranted.*

In 1989, the Board of Supervisors created the Correctional and Detention Services Advisory Commission. This commission was to advise the Board of Supervisors on current and proposed Adult Detention Facility Programs. This commission was specifically tasked with “The Analysis of the Feasibility of Using Correctional Officers in the Detention System.” After studying this issue, the commission made a strong recommendation to the Board of Supervisors to continue the policy of staffing the County Detention Facilities with Deputy Sheriffs, except for non-safety related functions.

The commission chair, Clemitt Swagerty wrote, “In 1985, the commission studied the Detention Staffing Analysis study prepared by the County Administrator’s Office, including responses from the Contra Costa Sheriff’s Office, the Taxpayers’ Association, Local One, and the Deputy Sheriff’s Association. After studying this latest analysis, dated January 18, 1989 by Hughes, Heiss and Associates, the commission found the two studies arrived at the same conclusion. Namely, that the risk of converting detention system staffing to correctional officers exceeds the benefit. Any direct cost savings may be short-lived because the trend throughout the State is for compensation parity between the Deputy Sheriff’s and Correctional Officers.

Indirect costs could also erode any savings, such as administrative personnel costs associated with the higher turnover rate resulting in additional staff to recruit, test, run background checks, and train correctional officers. Other arguments against the transition from deputy to correctional officers are:

- *Correctional officer staffing would institute a limited class of employment while reducing career opportunities for deputy sheriffs.*
- *Another department of County government would be created if the County separated the administration of the detention system from the Sheriff. This could make control and integration of the criminal justice system more difficult.”*

Our business of Adult Corrections has become even more complicated since this report was published. We have experienced an increase of gang, alcohol, and drug dependent inmates, as well as an increased population of inmates with mental health issues.

The Detention system in this County is one of the best run in the state. We consistently do more with less staff than any other system in the area. In recent years, we have seen populations in the MDF near 900 and have managed to run a safe and secure

facility. Contra Costa County has never had a court imposed population cap. In other Counties, the court intervention has cost enormous sums of money. While the Detention system can certainly use more staff, it is essential in maintaining safety of operations to not compromise expenses with less qualified personnel.

3. The Sheriff code incident reports so suicide attempts and Taser use statistics can be easily obtained.

CCCBOS Response: Has been implemented. Incident reports for both suicide attempts and Conducted Energy Devices (aka "Tasers") have been coded for easy retrieval from the Sheriff's Jail Management System.

CCCSC Response: The Recommendation has been implemented. Incident Reports for both suicide attempts and CEDs, Conducted Energy Devices (aka Tasers) have been coded for easy retrieval from our Jail Management System.

4. The Sheriff provide rain gear for inmates at Marsh Creek.

CCCBOS Response: Has not been implemented but will be implemented at the Marsh Creek Detention Facility immediately upon inclement weather.

CCCSC Response: The Recommendation has not yet been implemented, but will be implemented in the future. Rain protection will be provided to inmates at Marsh Creek Detention Facility during the inclement weather.

CONTRA COSTA COUNTY GRAND JURY REPORT 0609

Fire Danger For West County Residents Has Common Sense Gone Up In Flames?

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the preparation or approval of this report.

*Response from Contra Costa County Board of Supervisors (CCCBOS)
Response from Richmond City Council (RCC)*

FINDINGS

- 1. The City of Richmond unilaterally withdrew from the “Automatic Aid” agreement between the Richmond Fire Department the Contra Costa County Fire Protection District in August 2002. Richmond officials have stated that “Automatic Aid” was terminated because the County cut the money it paid to RFD for the service.**

CCCBOS Response: Agree.

RCC Response: The respondent partially disagrees with the finding. Although the lack of payment for services was a factor, it wasn't the only reason for the dissolution of the automatic aid agreement. Contra Costa County Fire withdrew from a joint training program and common dispatch services with the Richmond, El Cerrito and Kensington Fire Departments. This made it very difficult to train and communicate with the personnel of Contra Costa Fire Stations 69 and 70, hampering an effective operational response and adversely impacting firefighter safety.

- 2. Portions of unincorporated areas of West Contra Costa County are closer to RFD stations than to CCCFPD stations. In an emergency, the closest unit will not respond.**

CCCBOS Response: Partially disagree. The lack of an automatic aid agreement with the Richmond Fire Department has prevented a potentially closer unit from being dispatched without prior approval from Richmond Fire Administration for each incident. This more cumbersome “mutual aid” system causes an unreasonable delay in the dispatch of the closest resource.

RCC Response: The respondent partially disagrees with the finding. The reverse is also true; some areas of Richmond are closer to CCCFPD stations than RFD stations.

- 3. The City of San Pablo is served by a single fire station. It is the busiest station in the CCCFPD. Prior to the termination of “Automatic Aid”, most of the calls to the RFD were for incidents in San Pablo.**

CCCBOS Response: Agree.

RCC Response: The respondent agrees with the finding. Additionally, a large number of service calls for the Richmond Fire Department were also in the unincorporated areas of North Richmond.

- 4. Both CCCFPD and RFD have stated that an “Automatic Aid” agreement is a desirable goal for the West County area.**

CCCBOS Response: Agree.

RCC Response: The respondent agrees with the finding.

- 5. The two jurisdictions have different dispatch systems and separate command centers. These differences existed during the former agreement and were not a hindrance to operations.**

CCCBOS Response: Partially disagree. The two jurisdictions had different dispatch systems from 2000 until the automatic aid was stopped in 2002. Prior to 2000, CCCFPD stations were dispatched by the City of Richmond from its dispatch center.

RCC Response: The respondent disagrees with the finding. For nineteen years (1981-2000), the West County Fire District (Stations 69 & 70), the El Cerrito/Kensington Fire Departments (Stations 65, 71 & 72) and the Richmond Fire Department (Stations 61, 62, 63, 64, 66, 67 & 68) were all dispatched from one communication center in Richmond. This provided the best communications network, with seamless coverage in west Contra Costa County. In 2000, Contra Costa County Fire withdrew their two stations from the common dispatch system. By 2002, it became obvious that working on two different radio systems was proving to be very challenging. Unfortunately, those communication problems persisted and became a safety issue for the Richmond Fire Department.

- 6. There have been many meetings since 2002, between the CCCFPD Chief and various other parties including the RFD Fire Chief, Richmond City Manager, and representatives of RFD fire fighters union, to discuss what it would take to renew the “Automatic Aid” agreement.**

CCCBOS Response: Agree.

RCC Response: The respondent agrees with the finding.

7. **The most recent written proposal was one made by CCCFPD to the RFD November 2, 2005.**

CCCBOS Response: Agree.

RCC Response: The respondent agrees with the finding.

8. **The State of California has a standard formula for compensating Fire Departments when they respond to emergencies outside of their jurisdiction. This is known as the “backcharge formula”.**

CCCBOS Response: Partially disagree. Although there is a standard methodology used by the California Office of Emergency Services for calculating reimbursement to local fire agencies for mutual aid responses, we are not familiar with the term “backcharge formula”.

RCC Response: The respondent partially disagrees with the finding. The methodology used for reimbursing fire departments for incidents outside of their local jurisdiction is from the California Fire Assistance Agreement (CFAA). This contract is administered by the California Office of Emergency Services – Fire and Rescue Branch.

9. **The El Cerrito Fire Department currently maintains an “Automatic Aid” agreement with CCCFPD covering areas adjacent to El Cerrito. Even though it uses the RFD dispatch system, it also uses the CCCFPD dispatch system as a backup system. El Cerrito serves as an example of how this issue can be swiftly resolved, either technically or organizationally.**

CCCBOS Response: Agree.

RCC Response: The respondent partially disagrees with the finding. While El Cerrito does have an automatic aid agreement with Contra Costa County Fire, it is not a reciprocal arrangement. El Cerrito Fire responds into County area, but Contra Costa County Fire does not respond into El Cerrito. Since Richmond has an Automatic Aid Agreement with El Cerrito, the Richmond Fire Department handles calls for them when their stations are unavailable. Thus, the agreement between El Cerrito and Contra Costa County Fire only provides a one-way solution between the two agencies.

RECOMMENDATION

The 2005-2006 Contra Costa County Grand Jury recommends that the Contra Costa County Board of Supervisors and Richmond City Council:

Immediately, re-institute the “Automatic Aid” agreement. Use the standard State of California “backcharge” formula or any other mutually acceptable formula to compensate the RFD.

CCCBOS Response: *Has been implemented on July 11, 2006 on an interim basis pending a formal written agreement between the agencies.*

RCC Response: *The recommendation has been implemented. Effective July 11, 2006, the Richmond Fire Department reinstated automatic aid with the Contra Costa County Fire Protection District. The operational details of an agreement are attached for the Grand Jury's review. Please contact Richmond Fire Chief Michael Banks if you have any questions or require any additional information.*