

CONTRA COSTA COUNTY GRAND JURY REPORT NO. 1001

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 2009-2010 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 NO. 0902

**Economic Catastrophe Looms:
Contra Costa County Continues to be Ill-Prepared for Labor
Negotiations**

Response from Contra Costa County Board of Supervisors

FINDINGS:

- 1. Contra Costa County has labor agreements with unions covering as many as 13,000 employees.**

Response: Partially disagree. As of October 24, 2008, the County had labor agreements covering 12,766 individuals, which included 5,500 In Home Supportive Services (IHSS) workers who are not County employees.

- 2. Salaries and benefits account for 56.1% of the County's 2008-2009 budget.**

Response: Agree.

- 3. Union agreements, covering approximately 7200 employees, are currently the subject of collective bargaining.**

Response: Agree. Union agreements as of October 24, 2008 cover 7,266 employees.

- 4. Contra Costa County has no clearly defined or documented strategy for its 2008-2009 labor negotiations. A senior negotiator stated that the county position is "to react once we receive proposals from the unions."**

Response: Disagree. The County has developed a clearly defined strategy for 2008-2009 labor negotiations.

- 5. The Interim Manager of Human Resources has made a significant effort to expand the 2008-2009 County Negotiating Team.**

Response: Agree.

- 6. Fifteen Union Agreements expired simultaneously in September 2008 and have been extended through January 2009.**

Response: Disagree. Eleven Union agreements expired simultaneously on September 30, 2008 and only seven have been extended through January 2009.

7. **Negotiations began on October 16, 2008. The County proposed and obtained the unions' agreement for a set of ground rules for conducting the negotiations. This set of ground rules is not available to the Grand Jury, due to the County's interpretation of the Meyers-Milias-Brown Act.**

Response: Agree.

8. **Training for the County Negotiating Team didn't begin until September 2008.**

Response: Disagree. As part of the negotiation ground rules, the County Negotiating Team and the Union Coalition Bargaining Team attended, both separately and together, negotiation training provided by a Federal Mediator to enhance communication and working relationships. This training occurred in September 2008. Historically, IEDA and the County have provided training to negotiators on an as-needed basis.

9. **The County Negotiating Team has had multiple personnel losses over the past two years. Two County Administrators have left since 2006 followed by recent resignations of the Labor Relations Manager, the Employees Benefits Manager and the Human Resources Director, three top negotiators in the Human Resources Department.**

Response: Partially disagree. The Employee Benefit Manager position was filled in August 2005. All of the other employees listed, and others, have left since 2006.

10. **A Total Compensation Study commissioned by the Board of Supervisors (BOS) is scheduled to be completed by December 31, 2008. Reportedly, partial information is now available and will continue to be throughout the negotiations.**

Response: Partially disagree. The study is now expected to be completed by January 31, 2009.

11. **The 2008-2009 County Negotiating Team is utilizing a Principal Labor Relations Negotiator as its internal fact-finder for proposals from both sides**

Response: Agree.

12. **Industrial Employers and Distributors, Inc. (IEDA) has represented the County as the lead external County Labor Negotiator for the past 35 years. IEDA will act in this capacity for the 2008-2009 negotiations.**

Response: Agree.

13. **The County Finance Director is not a member of the County Negotiating Team but will provide cost projections and detailed costs analysis information upon request to both management and the unions.**

Response: Partially disagree. Although the County Finance Director does not engage in actual negotiations, she is an active member of the County's Labor Negotiation Advisory Team. The team consists of the County Administrator, the County Finance Director, representatives from the Offices of the Auditor-Controller and County Counsel, and senior management of Human Resources and IEDA.

- 14. The negotiated terms for the labor agreements will be reviewed by the County Counsel, the Auditor, and the Finance Director prior to going before the BOS for final approval.**

Response: Agree.

- 15. Working documents and negotiating details from prior negotiations are maintained by IEDA.**

Response: Partially disagree. Both the County and IEDA have maintained working documents and negotiating details from prior negotiations.

- 16. Members of the BOS continue to discuss negotiating issues with union representatives during and outside of the formal negotiations process.**

Response: Agree. There are policy and management reasons for elected officials to communicate with labor leaders on pending negotiations.

- 17. The County Administrator's office reports that the unfunded County OPEB obligation is \$1.7 Billion.**

Response: Agree.

- 18. It is widely acknowledged that dealing with the unfunded County OPEB liability is the highest priority for labor negotiations.**

Response: Agree.

- 19. Even paying a token amount toward funding the OPEB obligation means that numerous County services, valued at about \$10 million for the current fiscal year, will be reduced.**

Response: Partially disagree. In the FY 2008/09 year, the County prefunded \$20 million towards the OPEB liability. The prefunding of \$20 million dollars each year will result in more than \$600 million dollars over the 30 year actuarial period. This first step towards prefunding the OPEB liability had a significant impact on reducing the over-all liability. County services were reduced to generate \$10 million of the \$20 million amount.

20. **The County has historically had significant in-house financial expertise, including departments led by the Treasurer and Auditor-Controller, which has not been fully utilized in support of negotiations.**

Response: Partially disagree. There have been instances in the past when a more thorough involvement of in-house financial expertise may have improved the process and outcome of negotiations.

21. **In a step that continues to deplete County reserves, the BOS also authorized, in a separate transaction, the County Auditor-Controller to transfer \$10 million from reserves to the County's general fund for current operating expenses.**

Response: Disagree. The County appropriated \$10 million from the General Fund ledger to the General Fund Reserve for Contingency. This appropriation had no impact on depleting County reserves. The monies are still in reserve status. If the County is not able to balance annual expenses against annual revenues, that will have an impact on reserves.

22. **The labor agreements include obsolete language and practices.**

Response: Agree.

RECOMMENDATIONS:

1. **The County develop and use clear cut strategies prior to launching any future negotiation process.**

Response: Has been implemented. Contra Costa County has developed and uses clear cut strategies as part of the labor negotiation process.

2. **Current and future County negotiating teams must have the full commitment of the BOS without intervention during negotiations.**

Response: Has been implemented. The County's negotiating team has the full commitment of the BOS during negotiations. As has been explained to the Grand Jury previously, there are policy and management reasons for elected officials to communicate with labor leaders on pending negotiations. Additionally, it is within the purview of each individual elected official to decide what they wish to communicate to labor leaders as long as (per the Brown Act) they do "not disclose confidential information that has been acquired by being present in a closed session ... to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information." (Government Code, sec. 54963(a)).

- 3. At least 6 months in advance of contract negotiations, the County has a duty to initiate pre-negotiations training and obtain an updated Total Compensation Study.**

Response: Has been implemented. Contra Costa County provides on-going pre-negotiation training as part of the labor negotiation process. The Total Compensation Study is one tool in the process.

- 4. Within 6 months the BOS shall direct the County Administrator to develop a plan for assuming the lead role in future negotiations. This must begin with filling of the now vacant leadership positions in the Human Resources Department.**

Response: Has been implemented. The County Administrator has assumed the lead role in labor negotiations and leadership positions in the Human Resources Department have been filled or are in the process of being filled.

- 5. Within 6 months the Human Resources Department must build and maintain files and data bases that are essential and appropriate to conduct successful negotiations.**

Response: This recommendation is in process. The acting Labor Relations Negotiator has been assigned to the negotiation team for the specific purpose of building and maintaining files and data bases that are essential and appropriate to conduct successful negotiation.

- 6. Future labor settlements must include best practices such as eliminating barriers to reaching agreement on work simplification and regaining management prerogatives.**

Response: This appears to be a comment and not a recommendation. The Board of Supervisors agrees.

- 7. It is an absolute necessity that the BOS address the financial impact that reduced County revenues will have on salaries and benefits, ignore political expediency, and impose prudent financial discipline on any proposed labor settlements. To accomplish this, the BOS shall appoint a Financial Oversight Committee within 6 months to include, but not limited to, the County Treasurer-Tax Collector and the Auditor-Controller.**

Response: Has been implemented. The Board of Supervisors has been addressing the financial impact of reduced County revenues over the last several years. The County Administrator already relies upon the assistance of both the Treasurer-Tax Collector and Auditor-Controller through the Budget Cabinet and the Debt Affordability Advisory Committee. Also, the Board of Supervisors has a Finance Committee, which can be used to accomplish these goals. An additional committee is not warranted as

the expertise of the Treasurer-Tax Collector, Auditor-Controller, and County Assessor are already available.

- 8. By the next fiscal year, the County shall adopt a two year budget that incorporates appropriate fiscal, contingency and debt (including unfunded benefits obligations) funding polices.**

***Response:** Will be implemented. The County has already planned on implementation of a two-year budget process, and expects this to occur for the 2009-2010-2011 budget cycle.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0903

SHERIFF DEPARTMENT'S VOLUNTEERS GET TOP GRADES FROM THE GRAND JURY

Response from Contra Costa County Sheriff's Office

FINDINGS

1. The Sheriff's VSP is organized into the following groups:
 - **The Sheriff's Air Squadron** provides air operation support services. The Air Squadron consists of pilots and observers who conduct personnel transportation, aerial cataloging, aerial surveillance, logistical support, and assistance to the Sheriff's Air Support. The Air Squadron has 8 aircraft, 8 pilots and 7 observers. The pilots bring their privately owned aircraft to the VSP and some also pay for the aviation fuel used. Highlighting the fleet are a 6-passenger twin turbo propeller driven aircraft for long distance transport, and a high performance 5-6 seat helicopter. One volunteer has recently acquired a larger jet aircraft that requires two pilots and it may be added to the Sheriff's VSP inventory in the near future. Should it be used, its deployment will be limited to major crisis or war. In the calendar year 2007, the Air Squadron members contributed 557 hours of service. The members range in age from 30 to 70 years.
 - **The Sheriff's Explorer Program** is conducted under the auspices of the Boy Scouts of America. The Explorer Program provides members with experience and training in law enforcement. The Explorers participate in public events, provide traffic control, and serve in other ancillary functions. In 2007, the Explorers contributed 5,865 hours of service. The Explorers range in age from 14 to 21 years.
 - **The Sheriff's Dive Team** provides underwater services. Members of the Dive Team are highly trained and certified divers. As requested, the Dive Team activities include body recovery, evidence searches, vehicle recovery and swift water rescue. In 2007, members of the Dive Team contributed 550 hours of service. The Dive Team members range in age from 40 to 70 years.
 - **The Sheriff's Medical Support Team** consists of volunteers with specialized medical training who are prepared to respond during times of emergency or disaster. The Medical Support Team is also trained to deploy in support of the Mobile Field Force and the SWAT team during training or active deployment. This team also provides specialized medical training to the first responders of the

Search and Rescue Team. Member retention is difficult for this team due to the monetary loss incurred by medical professionals who contribute time to train with the team. In 2007, members of the Medical Support Team contributed 250 hours of service. The three members of the team range in age from 30 to 50 years.

- **The Sheriff's Food Service Unit** provides meals to units during extended operations and supports overnight training missions of the other volunteer service units. Events include: SWAT operations, in line-of-duty deaths, search and rescue activations, and other Sheriff's Department functions. In 2007, the Food Service Unit contributed 550 hours of service. The team members, who range in age from 30 to 60 years, are led by a Volunteer Food Service professional. Plans are in place to expand this unit.
- **The Sheriff's Reserve Deputy Program** provides support for all divisions within the department. Reserve Deputies operate and supplement the daily operations of the Field Services Unit by providing: transportation services, off-road vehicle support, and crime scene support. They assist in many search and rescue functions, and serve at hundreds of community events throughout the year providing operational support, traffic control and event security. Security for the Contra Costa County Fair is provided solely by the Reserve Deputy Program. In 2007, Reserve Deputy Program personnel contributed more than 22,000 hours of service. Its 65 members range in age from 21 to 75 years.
- **The Sheriff's Search and Rescue Team** is well known throughout the state for its search and rescue efforts. It is regularly called to assist throughout California, including Yosemite and other high risk situations. In addition to responding to routine missing person calls or lost child calls, the team is in a constant training mode. Currently the team is working toward Mountain Rescue Association accreditation and expects to receive it in early 2009. The team operates its own training academy for new members as well as for those who are preparing for advancement assignments. In 2007, the team contributed over 45,000 hours of service. The program's 211 members range in age from 14 to 60 years.
- **The Sheriff's Amateur Radio Communications Team** (also known as ARC) primarily provides communication support to all department operations. Team members provide essential communications for events and operations, and ultimately support the Office of the Sheriff in times of disaster by providing an alternate means of communication when the normal systems are overloaded or destroyed. In addition they also support the Sheriff's emergency mobile command center. In 2007, the team contributed over 2,000 hours of service. The 22 members of the team range in age from 40 to 60 years.
- **The Sheriff's Radio Amateur Civil Emergency Service** (also known as RACES) Team provides communications for all of the emergency operations centers within Contra Costa County. Members are all licensed amateur radio operators

(also known as HAMS). During times of disaster the team establishes and supplements communication networks. In 2007, they contributed nearly 4,000 hours of service. The team has 124 members ranging in age from 35 to 70 years.

- **The Sheriff's Chaplaincy Program** provides spiritual guidance and counseling as needed to all members of law enforcement and the community. Chaplains participate in community events, ride along with deputies on patrol, and assist during times of crisis. In 2007, members contributed in excess of 3,500 hours of service. The 35 members of the team range in age from 40 to 70 years.
- **The Sheriff's Auxiliary Volunteer Extended Services (SAVES)** program provides assistance to all areas of the Office of the Sheriff. SAVES members can be found providing essential services to the Crime Lab, the Coroner, Field Operations Bureau, and Emergency Services Support Unit. In 2007, members contributed over 15,000 hours of service. The team's 135 members range in age from 18 to 75 years.

Response: Agree.

2. There are about 500 individuals in the Sheriff's 11 volunteer programs. Approximately fifteen percent are women. The services rendered by these volunteers are equivalent to about 50 full time paid positions yearly. If the County had to pay for the services provided by all of these volunteers it would cost in the vicinity of \$5,000,000.

Response: Agree.

3. The 500 volunteers are supervised by two county employees.

Response: Agree.

4. All volunteers are extensively screened. This process includes a Department of Justice background check, a DMV report, and fingerprinting. Reserve Deputy Sheriffs must undergo the same physical, psychological and academic testing as regular Police Officers.

Response: Agree.

5. All volunteers are trained for emergency responses in their respective programs. The Search and Rescue Team members, for example, must successfully complete training on the Search and Rescue Mutual Aid-Ground Searcher Guidelines before they can be certified to become eligible to participate in search and rescue missions.

Response: Agree.

6. **The Search and Rescue Team members pay for some of their own rescue gear, which can be costly. It is not unusual for team members to incur costs of \$1000 to \$2000 during their first year.**

Response: Agree.

7. **The county provides the first uniform for volunteers and also pays an annual uniform allowance of \$150 - if there is adequate money in the budget.**

Response: Agree.

8. **The Reserve Deputy Program members provide services for events not normally budgeted by the County Sheriff's Department. They are not paid for these services.**

Response: Agree.

9. **Most volunteers maintain their volunteer status and do not apply to become a sworn Deputy Sheriff.**

Response: Agree.

10. **The longest tenured volunteer has 35 years of dedicated service and pictured below is the oldest volunteer in the program, a retired deputy sheriff sergeant who is 75 years old.**

Response: Agree.

RECOMMENDATIONS

1. **The VSP would be more effective if more support staff were made available. Currently, two county employees are supervising 500 people. We recommend that the Sheriff identify the amount of funds necessary to support additional staff to enhance this valuable county resource.**

Response: The Office of the Sheriff agrees with this recommendation and has explored funding, but has faced huge budget restrictions. This coupled with the fact the Office is anticipating layoffs of staff, adding additional staff is not feasible.

2. **Other than for emergency services, the Sheriff should consider generating revenue from the services the volunteers perform. The Sheriff should consider whether event organizers should pay a nominal fee for volunteer services provided, including events such as athletic events, car shows, parades, and community events.**

Response: Although the Sheriff's philosophy categorizes the service provided by Volunteers as benevolent, the Emergency Services Division has implemented action based on the Grand Jury recommendation. The Emergency Services Division has implemented a system to enhance revenue by allowing a charitable donation by those entities that utilize the services of Sheriff's Volunteers. Additionally, there are mandates that require that mutual aid participants receive "basic needs" items such as food and shelter, during any formalized Mutual Aid operation.

1. Event organizers will be offered an opportunity to donate money to the Sheriff's Volunteers as a means of generating revenue.
 2. When appropriate, event organizers will be given a tax identification number in response to their donation.
3. **The Sheriff should consider whether all monies generated from the VSP, including funds from the contract with the County Fair, should be reinvested in the volunteer program.**

Response: The recommendation to consider reinvestment of all monies generated from the Volunteer Service Program has been implemented.

1. The Emergency Services Division Commander will maintain an account with all revenue generated from contractual service by the Sheriff's Volunteer Unit.
2. The Emergency Services Division will reinvest all monies generated back to the volunteer program.

CONTRA COSTA COUNTY GRAND JURY REPORT 0904

THE LOST GENERATION THE ELDERLY CITIZENS OF CONTRA COSTA COUNTY

Response from Contra Costa County Board of Supervisors

FINDINGS

1. **According to the US Census, almost 11% of the thirty-six million residents in California are 65 or older. Its most recent estimate is that Contra Costa County residents over age 65 constitute 11.5 % of the County's population, or about 118,000 individuals.**

Response: Agree

2. **The fastest growing segment of the population in Contra Costa County is the 85+ age group. Over the next ten years, this group is predicted to skyrocket by 55%. The 65+ age group is expected to increase 37%.**

Response: Partially agree.

According to the U.S. Census Year 2000 projections, in 2010 there were 128,029 persons 65 years and older living in Contra Costa County. Ten years hence, in 2020, there will be approximately 187,168 persons 65 years and older living in Contra Costa County. This represents a 46% growth. From 2010 to 2020, it is anticipated that there will be a 68% growth in the 65+ population in Contra Costa County.

According to the U.S. Census Year 2000 projections, in 2010 there will be 19,514 persons 85 years and older living in Contra Costa County. Twenty years hence, in 2030, the 85+ population in Contra Costa County will grow to 24,524 representing an increase of 26% in this age group.

3. **During the fiscal years 2006-2008, more than 3500 reports of elder abuse in all forms, were reported to Contra Costa County's Adult Protective Services, a division of Contra Costa County Health and Human Services. Of the reports made in 2006-2007, 486 dealt with elder financial abuse. The number increased to 528 in 2007-2008, an increase of 9.2%.**

Response: Agree

4. **The legislature recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment, and that this state has a responsibility to protect these persons.**

Response: Neither agree nor disagree. We have no direct knowledge of what the Legislature may or may not recognize. However, in 1999 the Legislature passed Senate Bill 2199. This bill amended the Elder Abuse and Dependent Adult Civil Protection Act and requires county adult protective services agencies to provide a program of services to maintain the safety of elders and dependent adults in the home and in the community.

- 5. Contra Costa County elderly residents, who lack financial, physical or mental health support, have little or no protective options provided by their local government.**

Response: Partially disagree. Adult Protective Services is mandated to provide protective services to Contra Costa County residents 65 years and older, as well as dependent adults. As of January 1, 2009, due to significant budget reductions impacting Adult Protective Services' staffing, protective services involving an investigation have been prioritized to focus primarily on perpetrator abuse, specifically physical and financial abuse cases involving Contra Costa County elderly residents and dependent adults.

- 6. The State mandates that Contra Costa County provide financial protective services to its most fragile citizens under the Elder Abuse and Dependent Adult Civil Protective Act.**

Response: Agree.

- 7. Paid or unpaid individuals responsible for caring for elderly adults are mandated to report elder abuse. These mandated reporters include but are not limited to administrators, supervisors and licensed staff providing care and services to the elderly, APS employees, health practitioners (such as physicians and nurses), police officers, clergy members, employees of financial institutions, and elder or dependent adult care custodians. Care custodians include, for example, home health agency administrators and staff, and fire department members.**

Response: Agree.

- 8. If a mandated reporter fails to report to an appropriate government agency, incidents of known or suspected abuse, he or she may incur a civil penalty in an action by the Attorney General, District Attorney or County Counsel.**

Response: Agree. In addition there could be criminal penalties.

- 9. SB 1018 (The Financial Abuse Reporting Act of 2005), effective on January 1, 2007, requires Contra Costa County's APS agency to provide mandated reporters of suspected financial abuse of an elder or dependant adult with instructional materials. These materials define elder and dependent adult abuse**

and neglect, and also describes mandated reporters' obligation to report such abuse.

Response: Agree.

10. **About 25% of elder abuse cases are referred to law enforcement for possible criminal investigation.**

Response: Agree.

11. **Perpetrators of elder abuse include spouses and adult children, grandchildren, other relatives, caregivers, parents, siblings, service providers or caregivers, unknown persons or friends, and others.**

Response: Agree.

12. **Recognized experts estimate that only one in five cases of elder abuse in California is reported.**

Response: Agree.

13. **Adult Protective Services lost the following staff as of January 1, 2009; one Public Health Nurse, one Mental Health Clinical Specialist, nine Social Workers, and two Social Work Supervisors.**

Response: Agree.

14. **Due to staff reductions, APS will no longer be able to provide case management services for the elderly victims of abuse and neglect in Contra Costa County.**

Response: Partially disagree with this finding. Due to staff reductions, APS will prioritize investigation and case management capability to reports involving perpetrator abuse such as physical abuse and financial abuse. With limited social worker staff, APS will not be able to offer case management services to dependent and older adults suffering from self-neglect.

15. **The protective net that APS has provided to the elderly will be reduced to referral of cases to police departments, hospitals, mental health and the public guardian's office.**

Response: Partially disagree. Protective services will be provided by Contra Costa County APS to elder and dependent adult victims of abuse involving a perpetrator. Due to significant budget reductions, APS response to reports of victims of self neglect will be very limited and, as a result, many of these cases will surface in police departments, hospital emergency rooms, mental health clinics and the public guardian's office.

16. **Outreach to the community regarding elder abuse and neglect, mandatory reporting, and elder financial abuse will no longer be provided due to APS staff reductions.**

Response: Partially disagree. We are in agreement that outreach to the community regarding elder abuse and neglect, mandatory reporting and elder financial abuse will no longer be provided by APS due to APS staff reductions.

However, there is a countywide effort to train volunteers to reach out to the community regarding elder financial abuse. A training of volunteers was held on April 9, 2009. Partners in this effort include: Contra Costa District Attorney, Area Agency on Aging, Advisory Council on Aging, JFK University Elder Law Clinic, Elder Financial Protection Network, California Department of Consumer Affairs, Contra Costa for Every Generation, Amazing Solutions Foundation, East County Senior Coalition, City of Richmond Commission on Aging.

17. **The Contra Costa County Conservatorship/Guardianship (C/G) Program (which is within the Mental Health Division of the Department of Health Services), deals with elderly persons with and without dementia and dependent adults who need assistance in managing their financial affairs. Current referrals come primarily from APS, local hospitals, skilled nursing facilities, the courts, friends and family members.**

Response: Agree.

18. **California law (Probate Code Section 2920) specifies that, if a court order is issued requiring a conservator be appointed, and no one else is available, a Public Guardian shall be appointed.**

Response: Agree.

19. **Each case accepted by the C/G program requires consultation with, and the support of, legal counsel. Within the County Counsel's Department there is no designated attorney to serve the C/G Program.**

Response: Disagree. The County Counsel's Office is available for consultation, representation and legal research upon request; however, neither the Welfare and Institutions Code nor the Probate Code contains a requirement legally obligating the C/G Program to consult with and obtain the support of legal counsel with respect to every case accepted. The County Counsel's Office currently has a deputy county counsel assigned as primary legal counsel to the C/G Program. Other deputies provide backup assistance as required and also assist in litigation matters on behalf of the C/G Program in Contra Costa County Superior Court. This arrangement ensures that legal counsel is available to assist the C/G Program when needed.

20. **Ongoing probate conservatorship services to qualifying elderly persons, including money management services, are provided only as a last resort and only if a private or personal alternative is not available.**

Response: Agree.

21. **Elderly persons without sufficient financial resources are not eligible for assistance from the existing C/G Program and ultimately get lost in the system.**

Response: Disagree The majority of persons served are indigent/below the poverty line.

22. **The C/G Program currently manages with 20 staff members the funds (estates) of over 500 people who need money management and conservatorship services.**

Response: Partially disagree. Case managers assist in money management as well.

23. **Of the 20 staff members, there are four designated probate conservators in the C/G Program to serve elderly people needing probate conservatorship services.**

*Response: Partially disagree. The program serves elderly **and** dependent persons. There is a Program Manager, a Supervisor who triages/assigns and diverts all cases, and a Properties Trust Officer that does primarily Probate work.*

24. **Due to the lack of designated staff, the legal needs of the C/G Program are not being met.**

Response: Disagree. The Program is currently meeting its mandates as outlined in regulation. Staff and managers are being cross trained to create redundancies in the unit.

RECOMMENDATIONS:

The County shall:

1. **Either: (a) Obtain from the State a waiver of its mandate to provide adequate resources to Adult Protective Services and the C/G Program, or (b) Obtain from the State adequate funding to pay for the required services, or (c) Choose to adequately fund the appropriate agencies providing the required services.**

Response: The recommendation will not be implemented because it is not reasonable. The State does not adequately fund APS. There is currently no mechanism to obtain a waiver from the State to provide adequate resources for APS. The county does not have adequate funds to enhance APS.

2. **Designate a specific legal support person(s) in the County Counsel's office to assist the C/G Program to provide legal advice, representation and research requirements.**

Response: The recommendation has already been implemented. The County Counsel's Office currently has a deputy county counsel assigned to the C/G Program.

3. **Develop realistic long term solutions to determine which services could be enhanced with restructuring.**

Response: The recommendation will not be implemented because it is not warranted. The Lanterman-Petris-Short Intake functions were transferred from the Employment and Human Services Department to the Health Services Department after an extensive review. Further restructuring is not warranted.

4. **Restore the essential staff positions, such as the Public Health Nurse, the Mental Health Specialist and at least four of the Social Workers, to APS that were lost as of Jan 1, 2009.**

Response: The recommendation will not be implemented because it is not reasonable. Given the current economic climate, the maximum staffing level is currently being provided. Additional funding is not available to provide additional staff.

**COUNTY YOUTH REHABILITATION CENTER
IS ON LIFE SUPPORT
IT'S TIME TO PULL THE PLUG**

**The Grand Jury's Financial Analysis of Orin Allen Youth Rehabilitation Center
Shows a Potential Savings of Millions of Dollars if it is Closed**

Response from Contra Costa County Board of Supervisors

PREFACE

The County appreciates the time and effort expended by the Grand Jury on its report. To facilitate a better understanding of the County's response to the report, we wish to preface our response with an explanation of the relationship between the Orin Allen Youth Rehabilitation Facility (OAYRF) and the Juvenile Hall, and also provide the budgetary context of our response.

The Juvenile Hall is generally not the final sentencing disposition for juvenile offenders, though it may be for a small number of offenders at any given time. Generally, the Juvenile Hall provides temporary detention for pre-adjudicated juveniles awaiting hearings or sentencing, and adjudicated juveniles who are sentenced to a treatment or rehabilitation program that has a waiting list. For example, on April 28, 2009, there were 178 youths in the Juvenile Hall, 108 of which are pre-adjudicated and 70 of which were adjudicated. Of the 70 adjudicated youths, 10 were awaiting placement in a group home or residential treatment facility, 24 were awaiting placement at the OAYRF, and 2 were awaiting placement at the California Department of Juvenile Justice. Only 34 of the 70 adjudicated youths were actually sentenced to the Juvenile Hall: 10 for just a brief stay and 24 in the newly created Youthful Offender Treatment Program (YOTP), which is funded by the State through 2009 Juvenile Justice Realignment to accommodate youths that previously would have been sentenced to the California Department of Juvenile Justice (DJJ).

Other than the YOTP, no treatment or rehabilitative programs are offered at the Juvenile Hall. The Juvenile Hall mainly provides temporary detention to youths awaiting placement in a treatment or rehabilitation program. Such programs include State-licensed group homes and residential treatment facilities, the OAYRF, out-of-County camp programs, and the DJJ (for violent offenders). The Superior Court also has the option of sentencing a youth to the Home Electronic Monitoring Program, which does not involve any of the County's facilities.

The County has cut from its 2008/09 and 2009/10 operating budgets over \$150 million, requiring the elimination of more than 600 staff positions. An additional State Budget deficit of \$8 to \$12 billion is looming and will likely have repercussions for counties and other local

government agencies. In this environment, the County must look to providing services in the most economical way.

FINDINGS

Rehabilitation Youth Center's Mission:

- 1. According to its mission statement, the primary objective of this facility is to rehabilitate, that is to “provide a safe, drug free program that helps youth meet their social and educational dreams. Its goal is to guide treatment that will help youth strengthen the community and build stronger families.” This Youth Center was not meant to be simply a detention facility that houses youth offenders.**

Response: The County agrees with the finding.

Financial

- 2. There were nine escapees from the facility during the calendar year 2008. According to the Sheriff's Office, the average cost relating to capturing escapees is over \$1500 per hour. The only fences on the property are intended to keep the animals from roaming. There are no security fences along the perimeter of the Youth Center to prevent youth offenders from simply walking away.**

Response: The County partially disagrees with the finding. We concur that there were nine absences without leave from the Orin Allen Youth Rehabilitation Facility (OAYRF) in 2008. However, not all were escapes from the OAYRF. Two youths failed to return from home visits and one failed to return from a medical appointment. The six youths who actually left the facility did so in three separate events, to which the Sheriff's Department responded. One of the youths was apprehended by the Sheriff's Department.

Juvenile camps and ranches are non-secure facilities and are generally not fenced or enclosed. Some counties have added fencing around their camps, but more for the purpose of keeping trespassers off of the property than for locking residents in the facility.

As to the cost associated with capturing an escapee from the OAYRF, the Sheriff's response to an escape event will depend on the particulars of the event, the escapee, and the Sheriff's assessment of the potential risk to public safety. The Sheriff's estimated \$1,500 per hour cost is based upon a response requiring the helicopter, a deputy sheriff, a sergeant, a lieutenant, and a dispatcher. However, the Office of the Sheriff advises that, in general, a “walk away” from the ranch facility would normally require a one Deputy response because the facility typically houses less serious juvenile offenders. The Deputy would take a report and do limited follow up such as patrol the surrounding area and check in at the youth's home, subject to pending call volume and other factors such as the nature of the original offense.

Absent anything unusual or any information that would lead the Deputy or Sergeant to believe there is a heightened level of concern for public safety, no further action would be taken. This level of response is dramatically different and obviously less expensive than a search for an escapee that poses a substantial risk to public safety. But, again, it is the particulars of an event that determines the level and cost of the response.

- 3. The maximum capacity of the Youth Center is 100 youths. The new state-of-the-art Juvenile Hall in Martinez has the capacity, with alterations, to absorb all of the youths now housed at the Youth Center at a cost savings to the County.**

Response: *The County disagrees with the finding. The new Juvenile Hall only barely has the physical capacity to absorb the population of the OAYRF and such a consolidation could not be achieved at a cost savings. On the contrary, consolidation of the two populations within the Juvenile Hall could only be achieved at significant additional County cost (see response to Finding No. 4), would place the County in a crisis situation with regard to physical capacity, and would fail to comply with Court orders for the disposition of adjudicated minors.*

The maximum physical (state-rated) capacity of the Juvenile Hall is 290 beds, including 50 beds that do not meet minimum physical plant requirements for maximum security juvenile detention.

The Juvenile Hall population current averages 190 youths. The OAYRF houses 100 youths. Ignoring all other considerations such as cost and compliance with court orders, if the two populations were combined in the Juvenile Hall and the OAYRF was closed, the combined average population of 290 at the Juvenile Hall would place the County in immediate jeopardy such as it was in the early 1990s, when the County's Juvenile Hall was overcrowded, placed under a Court-ordered population cap, and under threat of decertification by the State. Moreover, consistently operating a maximum capacity severely limits the department's ability to manage high-risk populations that should not be comingled such as gangs and sexual predators, and eliminates any emergency capacity to manage peaks in population. The new Juvenile Hall was constructed to increase juvenile detention capacity by co-existing with the OAYRF and was not meant to replace the OAYRF as a sentencing option.

The Grand Jury's finding assumes that the Juvenile Hall and OAYRF Programs are equivalent and interchangeable sentencing options in the view of the Superior Court. This is not so. The OAYRF provides the Superior Court with a cost-effective sentencing option to high-cost private placements. Youths who are ordered by the Superior Court to be placed at the OAYRF are typically also ordered to participate in rehabilitative and/or treatment programs. Since the Juvenile Hall offers no rehabilitative or therapeutic treatment programs, placing these youths in Juvenile Hall will not meet the requirements of the Court orders for cognitive behavioral or other treatment programs.

4. **Based on its 2007-2008 Expenditure Ledger, the gross annual savings to the County resulting from the closure of the Youth Center would be about \$6.2 million dollars. The Grand Jury estimates there will be variable cost increases that should not exceed \$1.2 million dollars to house the reassigned youth in the Martinez Juvenile facility, leaving a projected net savings to the County of \$5.0 million dollars.**

***Response:** The County partially disagrees with the finding. We concur that the Expenditure Ledger shows the gross cost of the OAYRF Program of approximately \$6.2 million. However, to gain a complete understanding of the cost to operate the OAYRF Program, both the Expenditure and Revenue Ledgers must be consulted. The Revenue Ledger for OAYRF shows \$5.8 million of program revenue; the resulting net County cost to operate the OAYRF (gross cost less offsetting revenue) is approximately \$468,000. The Revenue Ledger does not identify restrictions that may exist for certain revenues. For example, approximately \$700,000 of the OAYRF revenue is categorical, meaning that the County qualifies for the revenue based on the number of juvenile camp beds it utilizes. Likewise, an additional \$3.6 million of the OAYRF revenue is restricted for prevention and early intervention services to at-risk youth and juvenile offenders and cannot be expended for incarceration costs.*

Although the State-rated bed capacity of the Juvenile Hall is 290 beds, the County cannot afford to staff the Hall at that capacity. The Juvenile Hall is currently funded at minimum staffing levels (1 counselor to 10 youths) to house 190 residents. The state-mandated minimum staffing requirement for a secure detention setting (1:10) versus the staffing requirements for a non-secure detention setting (1:15) virtually guarantees that a secure detention setting is more costly, disregarding any administrative and facility support costs, which are also likely to increase under a proposal that significantly increases Hall population. Additionally, as a non-secure camp program, the OAYRF qualifies for state revenue for which the Juvenile Hall is not eligible.

Consequently, the net County cost to house a youth at OAYRF is \$390/month as compared to the new County cost to house a youth at Juvenile Hall if filled to capacity of \$3,711/month.

Nor would it be more economical if one calculated only the key variable costs of adding 100 youths to the Juvenile Hall population with no commensurate increase to Hall Administration and Operation costs. Since approximately \$4.3 million of the revenue supporting the OAYRF is categorical (restricted to juvenile camp programs and prevention/early intervention services), closure of the OAYRF would not enable the County to apply the revenue against increased incarceration costs at the Juvenile Hall. Therefore, the incremental net County cost of closing the OAYRF and adding 100 youths to the Juvenile Hall – considering only supervision staff and food costs – can be calculated as follows:

2.8 FTE* Counselors per 10 minors	=	28.0 FTE Counselors	\$3,724,000
		2.0 FTE Institutional Supervisors	328,000
2.8 FTE Night Shift Counselors	=	2.8 FTE Counselors	372,400
Additional Meals at \$11/day	=		<u>401,500</u>
			4,825,900
Less Transferable Revenue	=		<u>-1,235,500</u>
			<u>\$3,590,400</u>

* 2.8 FTE Counselors would be required to meet the 1:10 staffing ratio in a 24-hours per day / 7 days per week institution utilizing two work shifts during daytime hours.

Approximately \$3.6 million in Juvenile Probation and Camps Funds (fixed allocation) could theoretically be utilized to provide prevention and early intervention services to juvenile offenders, but could not be utilized to mitigate increased incarceration costs at the Juvenile Hall. Upon closure of the OAYRF, \$700,000 of revenue would be forfeited.

Likewise, other placement alternatives such as other counties' ranches or group home foster care would also incur approximately \$4 million in additional County cost for 100 new placements, as compared to the \$468,000 of net County funds spent at OAYRF.

Facility and Grounds

Kitchen:

- 5. After purportedly spending in excess of \$500,000 two years ago on kitchen renovations and other improvements, grand jurors found that the majority of the deficiencies outlined in Grand Jury Report 0503 still exist. In addition, this grand jury found other deficiencies such as rusty steam table containers, a dirty sock on a rusty food scale, and other inadequacies.**

Response: The County partially disagrees with the finding. Every finding from Report 0503 has been addressed and corrected, and the State's biennial inspections made no findings pertaining to the kitchen program. The base of the steam table is old and due for replacement, but does not come into contact with food. Naturally, the presence of a sock on the steam table would be unacceptable to facility administration, but staff did not witness this occurrence nor did staff observe "other inadequacies", which were not specifically identified by the Grand Jury. It should be noted that, in addition to biennial State inspections, the County's Environmental Health Program routinely conducts unannounced inspections of the kitchen program, providing ample external monitoring of conditions.

- 6. The only restroom in the cafeteria building has been out of service for several months. This restroom was used by both staff and youth offenders.**

Response: *The County partially disagrees with the finding. The restroom was out of service intermittently over a period of several months and has since been repaired and is in working order. The restroom is for staff, not residents. Resident restrooms are located in the dormitories.*

- 7. The staff could not provide evidence of training and/or medical clearance for youth workers in the kitchen.**

Response: *The County agrees with the finding. Although the staff person on site during the Grand Jury's visit did not know where to locate the documentary clearance for youth workers to participate in the kitchen program, residents to receive Food Safety Training through the school and all residents are medically cleared by the on-site nurse prior to admittance to the OAYRF.*

Main Dormitory:

- 8. Our inspection found worn out mattresses in the dormitory for older youth.**

Response: *The County agrees with the finding. Note, however, that all mattresses were replaced with new mattresses as of December 1, 2008.*

- 9. An air conditioning system was not in evidence in a building that frequently reaches temperatures in excess of 100 degrees.**

Response: *The County disagrees with the finding. The kitchen, recreation room, and dormitories are air conditioned. All conditioning systems are in satisfactory working order. The thermostats on all of the systems are set at 73-74 degrees. Although the outdoor temperature often exceeds 100 degrees during the summer, we are unaware of internal building temperatures ever exceeding 100 degrees.*

- 10. The insect eradication program consists of fly strips hanging from the ceiling. A heavy infestation of insects, particularly flies, is due in large part to the close proximity of the living quarters to compost piles and animals.**

Response: *The County partially disagrees with the finding. The OAYRF is a ranch program in a natural outdoor setting. Insects are inherent in such a setting. State standards prohibit the use of pesticides at the facility, so the Probation Department uses non-chemical eradication methods. Fly strips are a small part of the eradication program. The Probation Department also uses two air curtains in the kitchen that emit a blast of air when the door is opened to prevent the entrance of insects, as well as electrical bug lights. In the spring of 2008, the Probation Department also began utilizing fly predators, which are tiny stingless wasps that eat flies and are harmless to humans and animals. As part of the insect abatement program, the Probation Department also removes manure regularly, composts waste properly, and maintains water devices in good repair.*

Compost piles exist on the ranch property, but are not in close proximity to the living units, ranging in distance of about 70 yards from the back door of the recreation room to about 125 yards from the back of the kitchen.

Nurses Office:

- 11. A nurse is available Monday-Friday from 9:00am-5:00pm. Youths needing medical treatment are transported to the Contra Costa Regional Medical Center in Martinez at all other times, including weekends, holidays, at night, or if there is a life-threatening emergency.**

Response: The County agrees with the finding.

- 12. There were hypodermic needles in an unlocked cabinet and a dirty sink in the nurse's office.**

Response: The County partially disagrees with the finding. The nurse's office is a locked office. Only medical staff has access to the nursing office due to HIPAA (Health Insurance Portability and Accountability Act) requirements. When the nurse is not present, medical supplies including hypodermic needles are stored securely in the locked office.

Grounds:

- 13. The rehabilitation complex is on approximately 50 acres of land, most of which is not being utilized. The property is strewn with old cars, an abandoned challenge course, incomplete projects, abandoned computer equipment, broken tools, debris, and junk.**

Response: The County agrees with the finding, with the clarification that surplus items are stored in confined and specific areas rather than strewn across the property.

- 14. Commercial metal shipping containers, now being used for storage, contain dangerous electrical wiring and open gasoline containers.**

Response: The County partially disagrees with the finding. The electrical wiring exists in a storage container but the wires are not hooked to electrical current, so there is no danger. Moreover, the storage containers are locked.

- 15. A dilapidated barn with parts of the roof and sides missing is located in the center of the property. A large abandoned plastic tank is stored near the horse corral along with debris.**

Response: The County agrees with the finding. Much of the ranch property cannot be improved as it comprises marsh and seasonal wetlands that provide a nesting habitat for waterfowl. Established in 1992, the pond is required to compensate for expansion at the Byron Airport. The barn sits on this land, and is home to many long-

tailed swallows, which are also a protected species. Due to its remoteness to the living quarters, the barn presents no danger to staff or residents. The water tank (the large abandoned plastic tank) was installed by a local farmer who planned to grow some crops in the front pasture. However, the poor soil quality could not support the crops, the farmer abandoned the project, and the Probation Department determined that the cost associated with removing the tank is prohibitive. The tank, while unsightly, poses no public health or safety threat and does not interfere with ranch operations.

- 16. Abandoned electrical switch panels and water pumps, some of which may be hazardous, are present throughout the property.**

Response: The County partially disagrees with the finding. These items exist but, while unsightly, present no hazard to residents or staff. There are no live electrical panels or water pumps that are abandoned on the property.

Livestock:

- 17. The animals at the Youth Center include a horse, a few goats, chickens, and llamas. None of the animals appeared to have shelter from the sun, rain or cold.**

Response: The County disagrees with the finding. All of the animals have shelter. A variety of managers exist including commercially purchased metal sheds, wood shelters built by the residents, coops for chickens and ducks, and small private managers for goats giving birth.

Youth Programs:

- 18. The Youth Center's staff supplied the Grand Jury with their Residential Handbook and also with a draft of a Youth Guide. The Guide is intended to supersede the handbook. However, as of January 2009 this guide has not been approved by senior management.**

Response: The County agrees with finding. The policies and procedures in the Residential Handbook are current. The purpose of the Youth Guide is to communicate the policies and procedures using more constructive terminology. At the time of the Grand Jury's visit, the Probation Department was still making aesthetic improvements to the draft Youth Guide. Since the Residential Handbook is still relevant, staff was at no disadvantage in continuing to rely on it pending the release of the Youth Guide. The Youth Guide has since been released.

- 19. The following treatment/program options are listed in the Residential Handbook: Family Counseling, Therapeutic Community, Restitution Service, Alcoholics/Narcotics Anonymous, Drug and Alcohol Assessment, Drug and Alcohol Counseling, Transition Program, Anger Management, Life Skills, Gang Diversion, Residential Commissary, Teen Parenting, Senior Tutors, Religious**

Guidance, Work Crew, Athletic League and Field Trips. Many of these treatment programs and services are inadequate or unavailable. Only court ordered programs are mandatory.

Response: The County partially disagrees with the finding. Of the programs listed above, only Family Counseling and Teen Parenting are currently unavailable. All other programs are available to all residents as determined by their individual treatment plans ordered by the Superior Court.

- 20. The Youth Center's manual describes an Animal Husbandry Program. The Grand Jury could find no evidence of instructors, a formal curriculum, or any youth involved in such a program. Animal Husbandry, apparently once a viable program at the Youth Center, is no longer functioning.**

Response: The County partially disagrees with the finding. This innovative program is managed by a lead Probation Counselor with the assistance of three other Counselors, who provide instructional materials and hands-on training to small groups of residents. Most new residents are initially fearful of the animals but, through time and education, learn to develop an empathy for them. The program materials developed by staff cover the anatomy of a goat, brooding behavior of chickens, and caring for the coat of the llama, as well as providing routine and emergent medical attention for all of the animals.

The program has not suffered any reduction in staff support or other resources and continues to be viable. At any time, from 8-15 youths participate in the program.

- 21. Delta Vista High School offers a program through which the youths can obtain their GED. This program is funded by the Contra Costa County Office of Education.**

Response: The County agrees with the finding.

RECOMMENDATIONS

- 1. With the goal of closing the Orin Allen Youth Rehabilitation Center, conduct a feasibility study and develop an exit strategy. Both objectives shall be accomplished within 6 months. The feasibility study will determine how the Youth Center population can be integrated into the Martinez Juvenile Hall, and what cost savings would be realized.**

Response: The recommendation will not be implemented as it is not warranted and not reasonable. Closing the OAYRF and transferring its population to the Juvenile Hall would increase net County costs by approximately \$3.6 million. Moreover, as a maximum security detention facility, the Juvenile Hall does not provide rehabilitative, therapeutic and behavioral treatment programs that are required by order of the

Superior Court for ranch residents. The minimum security OAYRF provides cognitive programming to help youths make socially appropriate choices with the added benefit of remaining in the County, close to their families, rather than being placed in out-of-County foster care or group homes. Juvenile justice best practices indicate that youths benefit most from the least restrictive environment, in terms of rehabilitation. The OAYRF is a best practice model in the field of Juvenile Justice.

- 2. Within 6 months, the County shall investigate all possible productive uses and revenue sources which might be realized from the closure of the Youth Center. Alternatively, the County shall consider the sale of the land and buildings.**

Response: *The recommendation will not be implemented because it is not warranted and not reasonable. Since most of the revenue that supports the OAYRF cannot be transferred to offset the costs of increasing the population at the Juvenile Hall, the recommendation is not economical. Particularly during periods of tight budgets, the County must look to maximum use of low-cost sentencing options such as the OAYRF.*

LEADERSHIP CRISIS IMPERILS MOUNT DIABLO SCHOOL DISTRICT

Response from Board of Trustees of the Mt Diablo Unified School District

FINDINGS

1. **The Mount Diablo Unified School District has a \$286.3 million budget for the 2008-2009 fiscal year.**

Response: The respondent agrees with the finding

2. **The Superintendent, rather than the Board, controlled the agenda for board meetings and decided what information to give or withhold from the Board.**

Response: The respondent partially disagrees with the finding. Board members occasionally placed items on the Board agenda.

3. **Some Board members did not have a full understanding of their duties regarding their function and financial responsibilities to taxpayers. As a result, they failed to lead and instead, followed the Superintendent's directives.**

Response: The respondent agrees with the finding.

4. **The District had not paid its correct federal payroll tax obligations for several years. In 2005 the District paid a levy of over \$105,000 for payroll taxes, interest, and penalties. The Board did not approve these payments and was unaware of these issues because financial documents given to the Board lacked adequate detail. In 2008 the IRS informed the District that it may owe \$833,000 in unpaid payroll taxes, interest, and penalties. This matter remains unresolved as of this writing.**

Response: The respondent partially disagrees with the finding. The District never failed to pay its federal payroll taxes.

5. **ADP, a private corporation which had served as the District's payroll tax processor, cancelled its contract in November 2006, because the District failed to fund the necessary amounts to provide for payment to the IRS.**

Response: The respondent partially agrees with the finding. ADP did write to the District in November 2006. The District believes that ADP bears partial responsibility for the IRS problems.

- 6. The Board approved the creation of an in-house attorney position as a cost cutting measure. It directed that the attorney report to the Superintendent. This reporting relationship limited the volume and type of work provided to the Board by the in-house attorney.**

Response: The respondent agrees with the finding.

- 7. Between 2002 and 2007, the District paid for work performed by an outside law firm. The law firm worked without a valid contract. This action violated District policy and the Board was unaware of this situation because renewal contracts were not forwarded by the Superintendent.**

Response: The respondent agrees with the finding.

- 8. District policy dated 7/16/2002 requires Board approval for all bills over \$25,000. The Superintendent frequently violated this policy by not submitting bills in excess of \$25,000 to the Board. As one example, he unilaterally authorized payment in 2007 of a disputed bill for almost \$110,000 to an outside legal firm.**

Response: The respondent agrees with the finding.

- 9. The Superintendent withheld critical financial information from the Board.**

Response: The respondent agrees with the finding.

- 10. The Superintendent inhibited the free exchange of information between various departments within the District. These actions undermined employee morale and, in some cases, led them to not report for work or to resign.**

Response: Respondent partially disagrees with the finding. Respondent cannot speculate as to the mental processes of employees, and on that basis cannot completely agree with the finding.

RECOMMENDATIONS:

- 1. That the President of the Board have a direct role in setting the agenda for its meetings.**

Response: The recommendation has been implemented; the Board President and Vice President take an active role in setting the Board meeting agenda.

2. **That current Board members be required to attend training or continuing education programs to learn and understand their role and financial responsibilities as elected Board members and similar training be a requirement for new Board members.**

Response: The recommendation has been implemented. Although not a requirement of the position, as a matter of good governance Board Members have attended, and will continue to attend, continuing education sessions.

3. **That effective immediately, the Board be given a list of disbursements on a monthly basis. Vouchers exceeding \$25,000 shall detail the vendor and the reason for payment.**

Response: The recommendation has been implemented. Records of disbursements are now distributed to all Board members. Summaries are included in the Board meeting agenda.

4. **That the Board initiate a feasibility study on the outsourcing of the payroll function.**

Response: The recommendation will not be implemented because it is not warranted. Payroll is now functioning well. Employee complaints have been greatly reduced.

5. **That in-house legal counsel report directly to the Board.**

Response: That recommendation has already been implemented. On December 16, 2008, the Board approved a change in reporting relationship and a modification of the General Counsel's job description.

6. **That a feasibility study be initiated to determine the optimum number of attorneys needed to serve in the Legal Counsel Department, and the Legal Department be expanded to bring the majority of legal work in-house, including unique work for Special Education.**

Response: The recommendation has already been implemented. On January 13, 2009, the Board approved a reorganization of the Office of General Counsel including the addition of an Associate General Counsel position. Review of the feasibility of additional in-house counsel is ongoing.

7. **That outside legal service providers agree to adhere to District billing policies.**

Response: The recommendation has already been implemented. Adherence to District billing policies is a necessary precondition to performing legal services for the District.

8. **That the Accounts Payable Department verify all contracts over \$25,000 be approved by the Board prior to payment and Legal Counsel monitor deficiencies.**

Response: The recommendation has already been implemented. There are multiple levels of review and oversight built into the District's contract processing. Initially, contracts are reviewed by the specific budget manager. Subsequently, the contract is reviewed by relevant Assistant Superintendent or Associate Superintendent and General Counsel reviews the document for legal sufficiency. The contract is then reviewed by the Accounts Payable Supervisor who can determine whether the amount of the contract either singularly, or in aggregate is in excess of \$25,000. If the contract requires Board authorization, the contract must go through a review by the Superintendent's Council.

9. **That a list of all service contracts up for renewal be provided to the Board annually.**

Response: The recommendation has not yet been implemented. It is currently District policy that all contracts which in aggregate exceed \$25,000, require Board approval. Staff will provide the Board with a list of all contracts in excess of \$25,000 annually.

10. **That all billing disputes be handled by the in-house Legal Counsel who shall review and recommend to the Board any actions to be taken.**

Response: The recommendation has already been implemented. Legal Counsel resolves all billing disputes. However, the ultimate authority to resolve such disputes rests with the Board of Education.

11. **That the Board consider approving any unauthorized contracts retroactively to adhere with policy.**

Response: The recommendation has already been implemented. If and when District staff discovers unauthorized contracts, they are brought before the Board.

Retiree Healthcare Benefits Leave County Taxpayers on the Hook

A New Approach is Required to Deal With Unsustainable Retiree Healthcare Benefits Provided to Most Contra Costa Governmental Employees

*Summary of Responses from Board of Supervisors, Special Districts,
School Boards, and City Councils*

FINDINGS

1. **Retiree health benefits have traditionally been a form of compensation earned by County and local government employees (e.g., pension income) over their working career, but paid to them over the years they spend in retirement. In prior years the cost of these benefits was usually recognized as an expense only when actual payments began following an employee's retirement (This method of recognizing an expense is commonly described as "pay-as-you-go" or "paygo".)**

Response:

- *The Contra Costa Board of Supervisors agreed.*
- *The Special Districts and School Boards – agreed 100%.*
- *The Cities – agreed 75% and disagreed 25%.*

2. **GASB 45 now requires that larger governmental entities commence accounting for (but not necessarily funding) these benefits on an Accrual basis – during the employees' period of active service when the benefits are actually earned.**

Response:

- *The Contra Costa Board of Supervisors – agreed.*
- *The Special Districts and School Boards – agreed 100%.*
- *The Cities – agreed 100%.*

3. **GASB 45 requires the following expenses to be recognized:**
 - **the current year's cost to fund that year's earned benefits, plus**
 - **the amount necessary to fund the unfunded OPEB liability for benefits earned but not funded in prior years.**

In most cases, these rules first became effective for public entities with revenues in excess of \$100 million for the fiscal year ended June 30, 2008. Smaller public entities will be required to comply during the following two fiscal years.

Response:

- *The Contra Costa Board of Supervisors – agreed.*
- *The Special Districts and School Boards – agreed 100%.*
- *The Cities – agreed 75% and disagreed 25%.*

- 4. To date in Contra Costa County there has been little or no funding of the OPEB liabilities for most governmental entities offering retiree medical benefits, including County, school districts, cities, and special districts.**

Response:

- *The Contra Costa County Board of Supervisors – disagreed.*
- *The Special Districts and School Boards – agreed 46%, disagreed 36% and 18% was N/A.*
- *The Cities – agreed 100%.*

- 5. Most larger County governmental employers provide their employees with extraordinarily generous retiree health benefits.**

Response:

- *The Contra Costa Board of Supervisors – disagree.*
- *The Special Districts and School Boards – agreed 54%, disagreed 27%, and 19% N/A.*
- *The Cities – disagree 100%.*

- 6. Property taxes accounted for almost 93% of Contra Costa County tax revenues in the most recent fiscal year with sales and other taxes making up the balance of total tax revenues received. These locally derived taxes also represented a significant portion of the revenue of school districts, cities and special districts located in the County.**

Response:

- *The Contra Costa County Board of Supervisors – agreed.*
- *The Special Districts and School Boards – agreed 81%, disagreed 10%, and 9% N/A.*
- *The Cities – agreed 100%*

- 7. The Board of Supervisors of Contra Costa County has committed to a future OPEB liability funding schedule for the County, including a commitment to contribute \$20 million during the 2008-2009 fiscal year. Although no actual payments were made into the County's OPEB Irrevocable Trust as of January 31, 2009, \$10 million is held by the County Treasurer in a designated account.**

Response:

- *The Contra Costa Board of Supervisors – partially disagreed.*

8. As of January 1, 2008 the County’s OPEB obligation was determined to be \$2.367 billion, or almost four times the County’s covered payroll (annual payroll of active employees covered by the plan) of \$610 million. Its Annual Required Contribution for the fiscal year ended June 30, 2008 was \$195 million, or almost 32% of covered payroll.

Response:

- *The Contra Costa Board of Supervisors – agreed.*

9. The calculation to determine a liability for future payments is primarily dependent upon the interest rate assumption. If the interest rate assumption is higher then the liability is lower; if the interest rate assumption is lower, then the liability is higher. If no funding mechanism is in place, and there is no expectation of putting money aside, the rules under GASB 45 require that a lower interest rate assumption be used.

The interest rate assumption that was used for the calculation of the OPEB liability and ARC for the fiscal year 2007-2008 was 4.5%. The basis for allowing the use of a higher interest assumption rate is that the entity will earn a rate of return on investments that can be used to help pay for the future benefits. Because the funding commenced with the current fiscal year, the assumed interest rate was increased to 7.75% in 2008-2009.

The result of the assumed interest rate increase was the OPEB liability dropped from \$2.3 billion to 1.7 billion, almost solely due to the interest rate assumption change.

Response:

- *The Contra Costa Board of Supervisors – partially disagreed.*

10. Based on information available to the Grand Jury, the current Actuarial Accrued Liability for OPEB benefits due to employees of all larger Contra Costa County local governmental entities, including those promised by the County, school districts, cities and special districts, now exceeds \$3.1 billion. These liabilities are summarized and shown graphically as follows:

Liabilities of Contra Costa County and Local Government Entities

Contra Costa County	\$1,737,000,000
Contra Costa County School Districts	1,060,000,000
Contra Costa County Cities	
199,000,000	
Contra Costa County Special Districts	<u>124,000,000</u>
Actuarial accrued liability for OPEB benefits	\$3,120,000,000

11. Based on the same sources, the current Annual Required Contribution (ARC) and the actual expense recognized (generally the current year's payment of health, dental and vision insurance premiums for retirees receiving benefits) are summarized as follows:

Annual Required Contribution

Contra Costa County	\$129,638,000
Contra Costa County School Districts	73,326,000
Contra Costa County Cities	21,199,000
Contra Costa County Special Districts	<u>21,161,000</u>
Total annual required contributions under GASB 45	\$245,324,000

Annual Actual Expense Recognized (Actual Contributions)

Contra Costa County	\$36,000,000
Contra Costa County School Districts	31,699,000
Contra Costa County Cities	6,986,000
Contra Costa County Special Districts	<u>8,663,000</u>
Total actual annual expenses paid for OPEBs	\$83,348,000

12. As the summary numbers shown in Finding 11 indicate, County local governments are currently only paying 34% (\$83,348,000 / \$245,324,000) of the Annual Required Contribution set forth in GASB 45. This means that the unpaid balance of the Annual Required Contribution, (\$245,324,000 - \$83,348,000) \$161,976,000, is being transferred to future taxpayers. This transfer to future taxpayers takes place every year.

Response:

- *The Contra Costa County Board of Supervisors – agreed.*
- *The Special Districts and School Boards – agreed 64%, disagreed 27% and 9% N/A.*
- *The Cities – agreed 50% and disagreed 50%.*

13. The 2007-2008 property tax revenue for the entire County was \$2.077 billion. Projections are that this amount will decline significantly during the next several fiscal years because of the current widespread decline in property values.

Response:

- *The Contra Costa Board of Supervisors – partially disagreed.*
- *The Special Districts and School Boards – agreed 45%, disagreed 27%, and 28% N/A.*
- *The Cities – agreed 100%.*

14. Larger Contra Costa County governmental entities with identified retiree healthcare plans are:

- **County:** Contra Costa County
- **School Districts:** Lafayette Elementary, Acalanes Union, John Swett Unified, Mt. Diablo Unified, Pittsburg Unified, San Ramon Valley Unified, West Contra Costa Unified and Contra Costa Community College.
- **Cities:** Antioch, Brentwood, Concord, Martinez, Pittsburg and Richmond.
- **Special Districts:** Central Contra Costa Sanitary, Delta Diablo Sanitary and East Bay Regional Parks.

Response:

- *The Contra Costa Board of Supervisors – agreed.*
- *The Special Districts and School Boards – agreed 64%, disagreed 9%, and 27% N/A.*
- *The Cities – agreed 100%.*

15. Recent information provided to the Contra Costa County Board of Supervisors makes clear that tax revenues and state support to the County are likely to decline for at least the next several years. This reduction in projected revenue has been currently offset by County Departments reducing their budgeted 2009-2010 full-time equivalent headcount by 191 public safety, health care and social services positions. If the County were to commence fully funding its ARC, its only practical source of near term future funding would be to further lower its staffing levels.

Response:

- *The Contra Costa County Board of Supervisors – agreed.*

16. On May 6, 2008, the Contra Costa County Administrator presented the following challenge to the Board of Supervisors:

“The ever growing health care expense demand on the general fund will consume our ability to provide public services. Given the size of our liability, we cannot responsibly eliminate enough programs to fund our current health care programs; we must contain and change the County’s cost of health care.”

Response:

- *The Contra Costa County Board of Supervisors – agreed.*

RECOMMENDATION

Contra Costa County government entities in most cases do not have the financial ability to prudently pay for the current retiree healthcare benefits that have been, and are continuing to be, earned by their employees. The Grand Jury recommends that these governmental entities implement sustainable strategies to reduce retiree healthcare benefits.

Several alternatives are:

- **Option 1. Implement a new defined contribution type retiree healthcare program for employees hired after July 1, 2009.** Under this type of plan, the government employer would contribute annually an agreed upon amount into each covered employee's separate account. This contribution would grow with investment earnings until withdrawn. Each covered employee would be entitled, at retirement, to draw from this account. The amount withdrawn would be used to purchase a health insurance policy of choice. There would be no employer responsibility to make any payments to, or on behalf of, the retired employee following his/her actual retirement.
- **Option 2. Freeze the employer-provided portion of the retiree health plan for currently covered active employees, regardless of age.** Any future cost increases would be borne by employees when they commence to receive their retiree healthcare benefits. (With the concurrence of legal counsel, this action could also be adopted for current retirees by freezing the employer's payment at their current premium rate.)
- **Option 3. Require greater benefit or premium cost sharing from retirees.** This could take the form of increases in program deductibles, co-pays, co-insurance and out-of-pocket maximums paid for by retirees, and/or it could require that retirees commence paying a larger portion of the insurance premium amounts.
- **Option 4. Require retirees to pay all, or a portion, of the cost of dependent coverage.**

These options are not all inclusive and are intended to be illustrative only. Individual Contra Costa County governmental entities will arrive at different plan design solutions that they deem appropriate for their employee groups and financial situations. The important point is that benefits provided under retiree healthcare plans for most County governmental employees must be reduced.

Response:

- School Districts - *Has been implemented – 17%*
Will be implemented – 25%
Will not be implemented – 16%
Has not yet been implemented – 8%
Requires further analysis – 34%

- Special Districts - *Has been partially implemented – 25%*
Not applicable – 25%
Not being considered – 25%
Requires further analysis – 25%

- Cities - *Has been implemented – 50%*
Has not been implemented – 25%
Requires further analysis – 25%

- *Contra Costa County Board of Supervisors – Has been implemented.*

**Individual responses to the Findings and Recommendations are available on request.
Please contact the Secretary to the Grand Jury at (925) 957-5638.**

Contra Costa County Grand Jury Report 0908

Surrounded by Water, Bethel Island Has Limited Access for Fighting Fires

**Inadequate funding leaves ECCFPD communities
behind the rest of Contra Costa County in Fire Services**

Response from the East Contra Costa Fire Protection District

FINDINGS

Fire Department Staffing, Facilities, and Equipment Prior to the Formation of ECCFPD.

- 1. Bethel Island had 15 to 35 active volunteer fire fighters who were paid on-call.**

Response: The respondent partially disagrees with the finding. It is unclear what time frame is being considered, the source of the information and the definition of “active” that is being referenced. Active paid-on-call firefighters average approximately 20 hours per week (including training), and active paid-on-call firefighter-paramedics average 24 hours per week (24 hour shifts). In the period prior to consolidation, January 1, 2002 through November 2002, records indicate that 13 paid-on-call firefighters and 12 paid-on-call firefighter-paramedics were identified by the Bethel Island Fire Protection District. However, payroll records reflect that 3 of the 13 paid-on-call firefighters were active responders, and 3 of the 12 paramedic-firefighters were active responders.

- 2. It became increasingly difficult to use volunteers because of changing standards and fire fighting techniques.**

Response: The District agrees with the finding.

- 3. Prior to the formation of ECCFPD, fire fighting equipment consisted of two fire engines for fighting structural fires, two designated for grass and brush fires, two fire boats (converted recreational vessels), at least one water tender, and a rescue unit.**

Response: The District agrees with the finding.

- 4. The Volunteer Fire Department was composed of residents of Bethel Island who were knowledgeable regarding the unusual pattern of roads, street names, and points of access.**

Response: The District partially disagrees with the finding. No documentation could be found to verify whether all personnel lived within the Bethel Island Fire Protection District.

- 5. In the 1970s, salaried staff consisted of a Fire Chief, an Assistant Chief, and a communications technician. In 1993-94 the Assistant Chief position was eliminated.**

Response: The District agrees with the finding.

- 6. The salaried full time personnel were basically day time with a variable number of volunteers available after hours and weekends. Usually, some personnel were on site 24 hours per day 7 days per week.**

Response: The District partially disagrees with the finding. We agree the full-time, salaried personnel were basically day time. However, due to the absence of staffing records prior to consolidation, it is unknown the number of staff that were in the station 24-hours per day 7 days per week. Payroll records indicate it is unlikely that a cadre of paid-on-call firefighters were frequently available for 24/7 coverage.

- 7. Just prior to the formation of the ECCFPD, it became difficult to maintain an acceptable level of service.**

Response: The District agrees with the finding.

**Fire Department Staffing, Facilities,
and Equipment After the Formation of ECCFPD.**

- 8. The ECCFPD was formed in September of 2002. The new District was a consolidation of three dependent Districts in the eastern part of Contra Costa County, Bethel Island, East Diablo and Oakley. The consolidation resulted in nine fire stations within seven communities¹, including Bethel Island and other unincorporated areas.**

Response: The District agrees with the finding.

- 9. The BOS application to the Local Agency Formation Commission (LAFCO) for the consolidation of East County fire departments to form the ECCFPD contained the following: “It is the intention of the Board of Supervisors to unify**

¹ Bethel Island, Oakley, Knightsen, Brentwood, Byron, Discovery Bay, and Marsh Creek-Morgan Territory area

the three districts into a single district that will provide seamless service in a way that will enhance the emergency response network within projected revenues. It is also intended to coordinate future efforts to develop funding and fire protection service levels to equal status with the remainder of Bay Area communities.”

Response: The District agrees with the finding. However, for clarification, the Board of Supervisors is the Board of Directors for ECCFPD.

- 10. According to ECCFPD, fire fighting procedures for Bethel Island are as follows: At the first alarm, one engine and two firefighters will be dispatched to the fire. Simultaneously, a fire engine will be sent to cover the Bethel Island station from a nearby community. If necessary, reserve fire fighters can be called to provide additional support.**

Response: The District partially disagrees with the finding. When a structure fire is reported on Bethel Island, the District dispatches four engines, one water tender and one Battalion Chief on the first alarm (five units and a Chief Officer is the standard response throughout the District). An engine is also dispatched to provide backup coverage to the Island if all of the above cited five units are going to be required at the emergency.

- 11. Following the formation of ECCFPD, fire fighting equipment and resources no longer available on Bethel Island are:**
- two fire engines for grass and brush fires,
 - two fire boats that were converted from recreational vessels,
 - one water tender,
 - the volunteer fire fighters.

The current complement of equipment and resources located at Bethel Island are two fire engines and two fire fighters and a contracted rescue unit.

Response: The District partially disagrees with the finding. The District has a Type-1 structure engine, Type-3 wild-land engine and a Type-2 fire boat. AMR provides a Quick Response Vehicle (QRV) Paramedic unit that is housed at the Bethel Island station.

- 12. ECCFPD recently acquired a state-of-the-art fire boat, which uses a two to three-person crew. This boat is on call for all of Contra Costa County and surrounding waterways. Therefore, it may or may not be available at any given time because of its coverage area. If the boat is required to fight a fire, firefighters from one of the responding fire engines could board the boat at the scene to achieve the needed crew size.**

Response: The District agrees with the finding. The District has the only fire boat within Contra Costa County Fire agencies. The Contra Costa County Sheriff's Department does have a patrol boat with firefighting capabilities. The US Coast Guard does not have firefighting capabilities in the delta region.

13. **The ECCFPD has stated that fire trucks have a shorter response time than a boat. For that reason the fire boat is not the primary piece of fire fighting equipment.**

Response: The District agrees with the finding.

14. **Currently, Bethel Island fire station is staffed with six firefighters (2 per shift). Four are relatively long term. The remaining two firefighters are rotated in from elsewhere in the District.**

Response: The District partially disagrees. According to I.A.F.F. Local 1230's MOU, personnel are allowed to bid their work stations. Therefore, any of these individuals may choose to bid for another station.

15. **ECCFPD has contracted with American Medical Response (AMR) to provide three paramedics who are shared throughout the District. One paramedic is stationed at Bethel Island.**

Response: The District partially disagrees with the finding. It is true that AMR provides three (3) quick response vehicles within East Contra Costa Fire Protection District. However, AMR contracts with Contra Costa County Emergency Medical Services, not the Fire District.

16. **The system required to keep the water flowing to the business district hydrants failed in 2006 and has not been repaired or replaced. The pipes are old and in questionable condition. This pumping system, if operational, would provide water to service the business district. In addition to the 1,250 gallons of water available on the fire trucks, and local private working pumps, water to fight fires is brought in by tanker trucks or drafted (pumped) from the Delta. The Grand Jury was unable to determine the ownership of the pump and hydrants.**

Response: The District partially disagrees with the finding. The District has been working diligently since September 2008 to repair the system. As of July 3, 2009, the system has been activated and operational. However, it is true that ownership of the pump and hydrants cannot be determined. It is also important to note that, with the Bethel Island bridge replacement, the bridge pump with need to be relocated.

17. **Water Tenders (Water Trucks) brought from off of the island must be used to replace the inoperable water hydrants. The water supply is limited.**

Response: The District partially disagrees with the finding. Water tenders have always been utilized on Bethel Island to supplement water.

18. **There are private wells and water systems on Bethel Island, but with few exceptions they do not provide water for fire protection.**

Response: The District agrees with the finding.

19. **Prior to the formation of ECCFPD in 2002, there were approximately 450 calls per year on Bethel Island with an average response time of slightly more than 6 minutes.**

Response: The District partially disagrees with the finding. Based on data provided by the Davis Company's, "Evaluation of Fire Service and Financing for the Far-East Contra Costa County Fire Protection Districts" dated April 2002, response times appear to average slightly more than six minutes. However, data does not specify if there was more than one person on the responding equipment.

20. **After the consolidation, the actual response time was recorded at approximately 10 minutes. A 2006 report by Citygate Associates showed that ECCFPD response times should be 5 minutes.**

Response: The District agrees with the finding.

21. **Between November 1, 2007 and November 30, 2008, Fire District logs indicate average response times for fires were more than 8 minutes.**

Response: The District agrees with the finding.

22. **The fire station is uninhabitable due to the presence of mold. This requires the leasing of temporary facilities for the housing of personnel. Only firefighting equipment is permitted in the existing building. When permits are issued, it will be demolished.**

Response: The District agrees with the finding.

23. **ECCFPD firefighter's wages and benefits are the lowest in Contra Costa County.**

Response: The District agrees with the finding.

24. **The District provides no formal training of personnel regarding the confusing street patterns, names, and terrain of Bethel Island.**

Response: The District partially disagrees with the finding. The District conducts training in all of its stations to educate personnel on streets in their first-due areas. District equipment includes Mobile Data Computers/GPS units for mapping and directions to calls.

25. **The ECCFPD provides no formalized performance evaluations or objectives related to all fire fighting personnel.**

Response: The District partially disagrees with the finding. The District conducts probationary performance evaluations for all ranks and provides engine standards for firefighting skills.

26. **Delta Coves has most of its infrastructure requirements completed. Economic issues have delayed the development of the project indefinitely. Although fire hydrants are in place, a source of water will have to be acquired prior to any construction.**

Response: The District agrees with the finding.

27. **The ECCFPD Fire Chief reports to the BOS and the County Administrator.**

Response: The District partially disagrees with the finding. The Fire Chief reports to the Board of Directors and the County Administrator.

28. **The ECCFPD encompasses portions of Supervisorial Districts Three and Five.**

Response: The District agrees with the finding.

RECOMMENDATIONS

1. **Establish an oversight commission, as was done during the formation of the ECCFPD. The commission could assist in managing funding issues, determine future resources (equipment, personnel or fire stations), determine areas of risk, recommend the establishment of response time goals, improve local control, and reduce perceived inequities as they pertain to Fire District decisions.**

Response: The recommendation will not be implemented as it is not warranted. The Board of Directors and the District feel that establishing an Advisory Commission is not warranted because the Board of Supervisors is the Board of Directors for ECCFPD and provides sufficient oversight and direction. The Board of Directors has also invoked local advisory sub-committees for specific issues as needed.

2. **That ECCFPD provide formal orientation training specific to Bethel Island for all District fire fighters.**

Response: The recommendation has not yet been implemented, but will be implemented in the future. The District is currently building a formal orientation training program including check off for the Bethel Island area. All personnel will receive this training prior to November 1, 2009.

3. **That ECCFPD complete a risk assessment of all areas of the District and establish an acceptable level of risk for each area to include response-time goals established for each area. Measurements shall be taken and compared to goals. The District shall develop objectives based on existing available resources.**

Response: The recommendation will not be implemented because it is not warranted. The Board of Directors authorized CityGate Associates, LLC, to prepare a "Fire Service and EMS Master Plan for the East Contra Costa Fire Protection District on August 10, 2004. The report was submitted and accepted by the Board of Directors in June 2006. The report included: a review of District operations, Risk Assessment, Service Levels and Standard Response Coverage, Revenue requirements to implement standards and Master Plan and Action Plan.

4. **That ECCFPD develop a cost comparison of various options to provide additional water supply for fire use on Bethel Island. Suggestions include but are not limited to:**
 - **strategic placement of water tanks, and/or**
 - **provide a method to move Delta water to the land side.**

Response: The recommendation requires further analysis. The District has analyzed the strategic placement of water tanks. Unfortunately, this analysis indicates private property would need to be utilized for placement. In addition, the District has been working with the community on a dry hydrant project. The dry hydrants could be placed around the levee tops, allowing fire engines to hook up and draft water from the delta. Current issues include ownership, easement, permits, insurance and funding source. At this point, no time line can be identified.

5. **That the BOS work in cooperation with the Fire District to ensure that the objectives of ECCFPD are part of the decision making process as the Bethel Island Delta Coves project progresses.**

Response: This recommendation has already been implemented. The Board of Directors and several County departments have been heavily involved with the Delta Coves project. Additionally, all projects within this area are reviewed by the Contra Costa County Fire Protection District's Fire Marshal and the Community Development Department.

**HARSH ECONOMIC TIMES DICTATE CITY
TRAVEL PRACTICES BE FINE TUNED.**

Summary or responses from Contra Costa County City Councils

RECOMMENDATIONS

- 1. That elected officials be included in travel and expense policies.**

Response: 100% has been implemented.

- 2. That attendees to city-paid conferences and seminars provide proof of attendance and deliver a report when appropriate.**

Response: 87% has been implemented. 17% has been partially implemented. 6% no changes needed.

- 3. That all cities, at minimum, follow IRS documentation guidelines for any expenses as an audit control and for budget planning.**

Response: 100% has been implemented.

- 4. That management review and communicate city travel procedures on an annual basis to update and eliminate contradictions.**

Response: 60% has been implemented. 33% will be implemented. 7% has been partially implemented.

- 5. That city guidelines promote the use of web sites to obtain the lowest rates available and to leverage government and group rates. A partial list of the government websites includes:**

- State Association of Counties www.csac.counties.org
- State of California website www.ofa.dgs.ca.gov
- California Travel Smart www.catravelmart.com
- League of California Cities www.cacities.org/travel

Response: 93% has been implemented. 7% has not yet been implemented.

**For copies of individual responses to the Recommendations,
please contact the Court Secretary's Office at (925) 957-5638.**

**RESTRICTIONS IMPEDE
GRAND JURY INVESTIGATION**

Children and Family Services Bureau Prevents Oversight

Response from Contra Costa County Employment and Human Services Department

FINDINGS

1. **Section 925 of the California Penal Code requires that “*The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of (Contra Costa) county*”**

Response: The respondent agrees with the finding.

2. **Section 919(c) of the California Penal Code requires “*The grand jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within (Contra Costa) county.*”**

Response: The respondent agrees with the finding.

3. **Section 939.9 of the California Penal Code requires that “*A grand jury shall make no report . . . on any matter except on the basis of its own investigation of the matter made by such grand jury.*”**

Response: The respondent agrees with the finding.

4. **Section 827 (a) (1) (P) of the Welfare and Institutions code provides that a case file may be inspected by: “*Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.*”**

Response: The respondent agrees with the finding.

5. **The Contra Costa County Children & Family Services Bureau of the Employment & Human Services Department of Contra Costa County is subject to the oversight responsibilities of the Contra Costa County Grand Jury.**

Response: The respondent partially disagrees with the finding. The Grand Jury has authority to investigate and report on county operations as set forth in Penal Code sections 888 and 925, not oversight responsibilities.

6. **There have been numerous newspaper articles and anecdotal stories state-wide about foster children being placed in unsafe or abusive homes, not attending school and not receiving appropriate medical treatment. There have also been reported incidents during which a lack of oversight resulted in death.**

Response: The respondent partially agrees with the finding. There have been numerous newspaper articles reporting on the care of foster children throughout the state. The County is not aware of what incidents the Grand Jury is referring to that resulted in death and of these alleged incidents, which, if any, occurred in Contra Costa County. Newspaper stories and anecdotes are not generally accurate descriptions of incidents involving foster children.

7. **Interviews by the Grand Jury suggest that the rapid turnover of assigned caseworkers and recent budget reductions are detrimental to the welfare of the foster children.**

Response: The respondent partially disagrees with the finding. The County is not aware of what interviews the Grand Jury is referring to in this finding. However, the County acknowledges the perception that staff turnover and budget reductions may impact the welfare of foster children.

8. **CFS establishes a case file for each foster child. CFS maintains that they have detailed records covering such things as the cleanliness of the living facilities, school attendance, indications of domestic violence, substance abuse and all medical records. CFS has taken the position that these files may not be reviewed in their entirety by the Grand Jury.**

Response: The respondent partially agrees with the finding. CFS establishes and maintains case files for each foster child. The child's case record contains information regarding that child and their family as authorized by state and federal law. CFS does not maintain records on all facilities; CFS only maintains records on facilities which are licensed by CFS. CFS has given the Grand Jury access to case files as authorized by the Welfare & Institutions Code 827 court order of January 21, 2009. These files included all court documents and contact notes written by social workers and all reports of child abuse or neglect on the child. CFS also gave the Grand Jury access to all public records that were requested.

9. **The Grand Jury spent many months attempting to gain full access to a random selection of case files. This effort began in September, 2008 and has continued to the present. These efforts included numerous meetings, electronic correspondence, and telephone conversations with CFS senior personnel as well as attendance at court hearings.**

Response: *The respondent partially agrees with the finding. The first Grand Jury request for all records came in a subpoena dated October 10, 2008, which requested full access to all records. CFS informed the Grand Jury that the law prohibits the disclosure of juvenile case files pursuant to a subpoena. The Grand Jury was informed that it could request access to the juvenile case files by filing a petition with the juvenile court pursuant to 827 of Welfare & Institution Code. Subsequently, the Grand Jury filed a petition with the juvenile court, and following a hearing on January 21, 2009, CFS provided access as ordered by the judge. Prior to this hearing CFS was unable to legally act on any requests for access to case file.*

10. **The Grand Jury has repeatedly requested that CFS provide access to review a random selection of complete current case files. This review would be conducted by a select group of Grand Jurors in a secure CFS location. Each request has been denied or indefinitely postponed. CFS contends that significant portions of the files be redacted before they can be reviewed by Grand Jurors. The redaction included all parties' names (including children, parents and mandated reporters) and addresses, excluding the names of towns. The first names of the children did not have to be redacted.**

Response: *The respondent partially disagrees with the finding. The Grand Jury repeatedly requested un-redacted access to all case files. On January 21, 2009, the Juvenile Court ordered that a random selection of a limited number of cases could be reviewed by four members of the Grand Jury who had received child abuse and criminal clearance. The court further ordered that items in the records be redacted. CFS redacted information based on the court orders and HIPAA requirements.*

11. **As a result of a Superior Court hearing dated January 21, 2009, and based on of Welfare and Institution Code 827, CFS agreed to provide Grand Jury access to requested case files, but due to the lengthy redaction process imposed by CFS, the Grand Jury has been unable to review any complete files.**

Response: *The respondent partially agrees with the finding. CFS complied with the juvenile court orders regarding access to and redaction of a limited number of case files. CFS provided the Grand Jury with comprehensive information on nine case records. Members of the Grand Jury reviewed these records on three occasions starting on March 11, 2009.*

12. **Over 200 Court Appointed Special Advocates (CASA) have immediate and direct access to the complete current un-redacted case files of County foster children to which they are assigned. Conversely, the Grand Jury, in its legally authorized oversight role has consistently been denied access to complete case files.**

Response: *The respondent disagrees with the finding. Court Appointed Special Advocates only have access to limited redacted child case files and only pursuant to*

an order of the juvenile court, and only after appointment by the juvenile court to a particular case as a child advocate.

13. **The oversight provided by federal and state authorities appears to involve comparing reported CFS statistical information with similar statistical information from other foster care agencies. No review or oversight is apparent from any non-agency personnel inspecting actual current and complete case files. (Note: No peer review documentation, though requested, has been made available.)**

***Response:** The respondent disagrees with the finding. The County has no direct knowledge of the Grand Jury's perceptions and understanding of the agencies that audit CFS for legal compliance. Peer review documentation was provided to the Grand Jury on February 6, 2009. The federal Department of Health & Human Services and the State Department of Social Services routinely audit CFS legal compliance including examination of case files.*

RECOMMENDATION

That the Employment and Human Services Department require CFS to allow full and unrestricted access by the Grand Jury.

***Response:** The recommendation will not be implemented because State law prohibits access to juvenile case files by grand juries absent a court order. CFS will continue to provide the Grand Jury with all public records upon request.*