

THE FRESNO COUNTY GRAND JURY



2005-2006

FINAL REPORT

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THE FRESNO COUNTY GRAND JURY



2005-2006

FINAL REPORT

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PRESIDING JUDGE OF THE FRESNO COUNTY SUPERIOR COURT

HON. EDWARD SARKISIAN, JR.
Presiding Judge for both 2005 and 2006

THE BOARD OF SUPERVISORS



**SUPERVISOR
PHIL LARSON**
DISTRICT 1



**SUPERVISOR
JUDITH CASE**
DISTRICT 4



**SUPERVISOR
SUSAN ANDERSON**
DISTRICT 2



**SUPERVISOR
BOB WATERSTON**
DISTRICT 5



**SUPERVISOR
HENRY PEREA**
DISTRICT 3

THE FRESNO COUNTY GRAND JURY



FRONT ROW (LEFT TO RIGHT)

OPAL MAZZEI, BEV KNOBLOCH, MARIAN MOSLEY, JOHN SNYDER,
HOWARD REED, PATRICIA WHITE & PAUL HAMILTON

MIDDLE ROW (LEFT TO RIGHT)

BARBARA SCHULTE, GAY BERRY, DELLA BURCHFIELD, LINDA CLAY,
GEORGE KNAPP & JOAN NIBOLI GRAY

BACK ROW (LEFT TO RIGHT)

WALTER CUCUK, ROBERT BUCHANAN, DOUG ARMSTRONG & LEE BOWERS

NOT PICTURED

JUDITH SAMPLE



MISSION STATEMENT



The Fresno County Grand Jury serves as the ombudsman for citizens of Fresno County. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government and special districts assuring honest, efficient government in the best interests of the people.

Their responsibilities include receiving and investigating complaints regarding county government and issuing reports. A Grand Jury Final Report is issued in June of each year.

Grand Jurors generally serve for one year although the law provides for holdovers for a second year to assure a smooth transition.

**THE
PRESIDING
SUPERIOR COURT JUDGE**



HON. EDWARD SARKISIAN, JR.

PRESIDING JUDGE 2005 and 2006

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County of Fresno

GRAND JURY

June 20, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, California 93721

Dear Judge Sarkisian:

The 2005-2006 Fresno County Grand Jury has completed its term of service, and it is my honor and pleasure to submit our Final Report. It has been a year of challenges and rewarding experience that we will always remember.

It was a pleasure to see a very diverse group come together to accomplish a valuable service to the citizens of Fresno County. They were grouped into six committees that could utilize their individual interest and expertise. Issues were assigned to appropriate committees to investigate, make findings, make conclusions from those findings and recommend solutions to resolve the issues.

So many complaints were received from citizens that exceeded all known previous Grand Juries, that the Grand Jury decided to issue a report on complaints and recommend that future Grand Juries set up a committee to handle the increased volume of complaints. All complaints are read to the entire Grand Jury and assigned to the appropriate committee to study and investigate. Not all complaints are assigned as many are not within the area of investigate powers of the Grand Jury.

Many government facilities and operations were visited and the jurors had the opportunity to meet with community leaders, city and county officials. The jurors also visited the jail, boot camp, juvenile facilities, both old and new, and the state prison facilities within the county for a greater understanding of how governmental facilities and departments operate.

Nine members of the Grand Jury attended a two-day seminar by the California Grand Jury Association which provided much valuable informational material and other resources that would not be available elsewhere. It is the recommendation that all members of the 2006-2007 Grand Jury be able to attend the next seminar that will be presented in August of 2006.

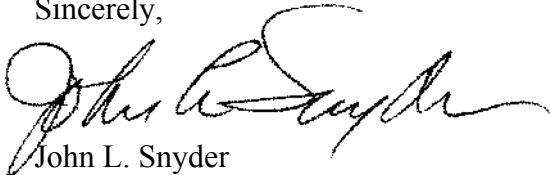
We owe a great debt for the assistance and guidance that was provided by Judge Sarkisian. Our thanks also go to the County Counsel Dennis Marshall and Assistant District Attorney Robert Ellis for their prompt response and counsel on concerns brought before the Grand Jury.

Hon. Edward Sarkisian, Jr.
June 20, 2006
Page Two

My gratitude to Sherry Spears, Jury Service Manager, who has been one of the most valuable resources a grand jury could ever hope to have for her endless patience, knowledge, experience and support.

My tenure as foreman would have not been possible without the support, cooperation, and diligence in doing superb investigations requiring much research and inquiries in volumes of material. I commend them for being a truly "grand" Grand Jury that has served Fresno County well.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Snyder". The signature is fluid and cursive, with a large initial "J" and "S".

John L. Snyder
Foreman

INTRODUCTION TO THE GRAND JURY

The Fresno County Grand Jury is a volunteer body of nineteen Fresno County citizens charged and sworn to conduct and respond to citizen's complaints. It is also charged to inquire into matters of civil concern within the boundaries of Fresno County and incorporated cities within these boundaries. Grand Jury duties, powers, responsibilities qualifications and the selection process are set forth in the California Penal Code section 888.

The Grand Jury reviews and evaluates procedures, methods and systems used by governmental agencies. It determines whether they comply with the state objectives of the agency and if their operation can be made more efficient and effective.

The Grand Jury functions lawfully only as a body; no individual grand juror acting alone has any power or authority. Meetings of the Grand Jury are not open to the public. All matters discussed before the Grand Jury and votes taken are required by law to be kept private and confidential. The end results as a Final Report and is released to the Presiding Judge. After his approval, the Final Report is released to the public.



THE COUNTY OF FRESNO

2005-2006

GRAND JURY ROSTER

JOHN SNYDER - FOREMAN

GEORGE KNAPP

DOUG ARMSTRONG

BEV KNOBLOCH

GAY BERRY

OPAL MAZZEI

LEE BOWERS

MARIAN MOSLEY

ROBERT BUCHANAN

JOAN NIBOLI GRAY

DELLA BURCHFIELD

HOWARD REED

LINDA L. CLAY

JUDITH SAMPLE

WALTER CUCUK

BARBARA SCHULTE

PAUL HAMILTON

PATRICIA WHITE

PARTIAL YEAR OF SERVICE

DON BLOSSER

AL SMITH



THE COUNTY OF FRESNO

2005-2006

FRESNO COUNTY GRAND JURY OFFICERS

FOREMAN

JOHN SNYDER

FOREMAN PRO TEMPORE

PATRICIA WHITE

RECORDING SECRETARY

LINDA L. CLAY

APPOINTMENT SECRETARY

PATRICIA WHITE

SERGEANT-AT-ARMS

JOAN NIBOLI GRAY

SERGEANT-AT-ARMS

GEORGE KNAPP

LIBRARIAN

GAY BERRY



THE COUNTY OF FRESNO

2005-2006

GRAND JURY COMMITTEES

BOARDS, COMMISSIONS AND DISTRICTS

JOAN NIBOLI GRAY CHAIR
DOUG ARMSTRONG
WALTER CUCUK
PAUL HAMILTON
PATRICIA WHITE

COUNTY OF FRESNO

JUDITH SAMPLE CHAIR
GAY BERRY
GEORGE KNAPP
HOWARD REED
BARBARA SCHULTE

CITY OF FRESNO

GAY BERRY CHAIR
DOUG ARMSTRONG
PAUL HAMILTON
MARIAN MOSLEY
BARBARA SCHULTE
PATRICIA WHITE

EDUCATION

HOWARD REED CHAIR
LEE BOWERS
WALTER CUCUK
BEV KNOBLOCH
JUDITH SAMPLE

COMMUNITY HEALTH

MARIAN MOSLEY CHAIR
LEE BOWERS
ROBERT BUCHANAN
DELLA BURCHFIELD
BEV KNOBLOCH
OPAL MAZZEI

LAW

DELLA BURCHFIELD CHAIR
ROBERT BUCHANAN
LINDA L. CLAY
JOAN NIBOLI CLAY
OPAL MAZZEI

EDITING/PUBLISHING

JOHN SNYDER FOREMAN
ROBERT BUCHANAN
LINDA L. CLAY
PATRICIA WHITE

**THE
BOARDS, COMMISSIONS
AND DISTRICTS COMMITTEE**

Fresno County Employee's Retirement Association
Southern Pacific Train Station Purchase
Appointments to the Association's Board of Trustees

INTRODUCTION

The Fresno County Employee's Retirement Association (FCERA) is governed by a nine member (plus one alternate) Board of Trustees who oversee the operations of the organization. Four of the members are elected, one is mandated (County Treasurer) and four are appointed by the Fresno County Board of Supervisors (BOS). They meet a minimum of once a month to decide matters of policy, approve or disapprove of disability claims and oversee investment performance.

I. Southern Pacific Train Station Purchase

BACKGROUND

The basics of the Fresno County Retirement Plan were established under a state law, "The County Employees' Retirement Law of 1937" (The Act), the stated purpose of which was ". . . to recognize a public obligation . . . to employees who become incapacitated by age or long service and its accompanying physical disabilities. . ." The Act requires the establishment of a retirement board, which has the fiduciary duty as trustee to administer the retirement plan. In 2002, FCERA's staff and Board of Trustees were using Fresno County facilities to conduct their business. The County notified the organization, at some point in the near future, it would need the space and that FCERA would have to move out. The decision was made to buy rather than lease, locate the building downtown and provide adequate parking for staff and visitors.

A four-person building search committee was formed. After looking at several suitable locations downtown, the Board voted to purchase the train station even though the building search committee was split two to two on whether or not to recommend the purchase of the building. There was no conference or "board room" and the remainder of the facility lacked the space and electronic capability to support their existing staff. The Board voted to purchase the property. *After* the building was purchased, an architect was hired to prepare a cost estimate of the renovation required to suit their needs. The estimated cost of the renovation exceeded what they had paid for this property. The Board decided to build a building on the vacant portion of the lot.

REASON FOR INVESTIGATION

This investigation was initiated by citizen complaints alleging improprieties in the July 2002 purchase of the train station property at 1713 Tulare Street, Fresno.

RESOURCES

- Interviews with past and present FCERA Board of Trustee members, real estate brokers, agents and FCERA staff
- FCERA regular and special meeting minutes for 2002 thru 2005
- FCERA financial statements for the years 2002, 2003 and 2004
- Pest control report for the train station dated July 2002
- Building inspector's report dated July 18, 2002 for the train station
- The "Real Estate Due Diligence and the Closing Process"¹ document
- State of California "County Employees Retirement Law of 1937"²
- The District Attorney staff and members of the judiciary
- Toured FCERA's office building and the train station with FCERA staff
- Selected tapes of 2002 FCERA board meetings
- Court records for FCERA legal actions
- Researched the Internet for information regarding the Southern Pacific Train Station
- FCERA website

FINDINGS

- F1 The building did not meet the space or configuration requirements of FCERA's Board and staff. Extensive remodeling would have been required.³
- F2 No cost estimate was made for the renovations that would be necessary to house the staff prior to the purchase.⁴

¹ Real Estate Due Diligence and the Closing Process - What institutional investors must know to assure that purchases will not unravel, now or later, by Tracy L. DeMay, Acquisitions Director of Closings, The RREEF Funds and published to Real Estate Review, Vol. 28, No. 3, Fall 1998, pp. 45-52.

² State of California County Employees' Retirement Law of 1937, Title 3, Article 1.

³ Architects' cost estimate dated Feb. 2003, F1, F2

⁴ Title Company closing statement

- F3 The building was, and is, on the National Registry of Historical Sites. This limits changes to the structure.
- F4 Fresno County maintenance personnel inspected the building and found the following deficiencies noted in a memo dated July 9, 2002:
- Old and poorly maintained heating, ventilation and air conditioning equipment
 - Extensive cracks on plastered brick walls
 - Roof not inspected but noted as having probable leaks
 - Some roof beams noticeably deflecting and over-stressed
 - Expense of pulling new wiring and cable for equipment noted
- F5 Pest control report item 10B notes possible roof leaks.
- F6 Seller's financial information showed an operating rental loss of \$26,000 for calendar year 2001.
- F7 The 2002 meeting minutes make no mention of any selection process for a realtor or any Board vote upon the selected broker or agent.
- F8 The selected real estate agent was inexperienced and had **never** sold property as a sole agent. The agent was an acquaintance of two of the Board members.
- F9 FCERA paid a commission of four percent, \$68,000, to the real estate broker. It is not usual or customary for the buyer of a property to pay the commission.
- F10 At the July 10, 2002 meeting, the Board minutes report "after some discussion and questions from Board members, a motion was made to give authorization to purchase said property for 1.725 million (sic) with a stipulation that a **structural engineer** (our emphasis) be hired to inspect the property and if there are any major structural damage, the Association would have their \$25,000 deposit returned. A formal roll call was taken. The motion passed with six ayes to three nays. A special retirement board meeting would be convened on July 19, 2002 to hear the engineer's report".
- F11 A **licensed contractor, not a structural engineer**, made the building inspection on July 16, 2002.⁵
- F12 California Government Code § 54957.1. (a) of The Brown Act states:
- "The legislative body ... shall publicly report any action taken in closed session and the vote or abstention of every member present ... concluding real estate negotiations ... shall be reported after the agreement is final, ... The body shall

⁵ Inspector's report dated 7/18/02

report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held”.

- At the special board meeting held on July 19, 2002 negotiations and the vote to purchase were held in closed session.
- The only item reported in open session was the result of the vote.
- The substance of the agreement was not reported according to law.

F13 The closed session report for the July 19, 2002 special meeting minutes for agenda item No. 3 are as follows:

“Conference with Real Property Negotiator: Consider Acquiring Property From REHL Estate Properties Located at 1713 Tulare Street, Fresno, Calif. And Terms of Purchase:

“The structural engineer’s report was presented to the Board regarding the property located at 1713 Tulare Street.

“After examining the report and a brief question and answer session, a motion was made by Board member Arambula, seconded by Board member Abshere to accept the engineer’s report and instruct staff to finalize the agreement to purchase the property at 1713 Tulare Street.

“A formal roll call was taken. The motion passed with four ayes to three nays and one abstention.”

This is the sum total of what was reported publicly.

F14 There was no documentation or evidence discovered indicating that due diligence was performed as outlined in the “Real Estate Due Diligence and the Closing Process” document.

F15 All 2002 board meeting minutes lacked detailed information.

F16 The cost to FCERA to purchase, repair and maintain this property through December 31, 2005 was in excess of \$2,000,000.⁶

F17 Because of the estimated cost of renovating the train station, the Board decision was to erect a building with an additional cost in excess of \$2,000,000.

⁶ FCERA budget status report for period ending 12/31/04, FCERA Fresno Station operations 08/15/02 through 12/31/05

F18 The Board is currently renting out the train station building and has incurred an operating loss of \$219,123. for the period August 15, 2002 through June 30, 2005.

CONCLUSIONS

- C1 The Board performed **minimal due diligence** for the purchase of its building.
- C2 The Board voted to buy the building even though the **structural engineer stipulation** as a **condition of purchase**, voted on nine days earlier, was **not** met.
- C3 The 2002 meeting minutes give no indication that the building search committee kept the entire board apprised of the building search progress. This may have been done in closed session, but the Grand Jury was denied access to this information due to attorney/client privilege.

II. Appointments to the Association's Board of Trustees

BACKGROUND

The Act defines who may serve as a member of the Board of Trustees and states that "...The fourth, fifth, sixth and ninth members shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the Board of Supervisors..."⁷

RESOURCES

- State of California "County Employees' Retirement Law of 1937"
- State Attorney General's Opinion Re: 1937 County Retirement Law – Retired Member as Board Member⁸

FINDINGS

F19 The Act specifies that, with the exception of the supervisor, the other three appointees "may not be connected with the county government in any capacity".

⁷ State of California County Employees' Retirement Law of 1937, Title 3, Article 3

⁸ California Attorney General's Opinion No. IL 77-185, dated December 20, 1977

- F20 Attorney General's opinion finds:
 "...Accordingly, we conclude that under the County Employees Retirement Act of 1937 a retired member cannot serve as the fourth, sixth or ninth member of the retirement board..."
- F21 The 2002 Board of Trustees had two appointed members who were connected to County government in some capacity. One of those members has been re-appointed for the 2006-2009 term.

CONCLUSIONS

- C4 The 2002 FCERA Board of Trustees did not conform to The Act.
- C5 The current FCERA Board does not conform to The Act.

RECOMMENDATIONS

- R1 Due diligence and proper procedures be followed in any future property transactions
- R2 The Brown Act be followed in regard to open meetings and reporting the results and trustee vote tallies from closed session meetings of **all** actions
- R3 The Board Of Supervisors follow The 1937 Act in appointments to the FCERA Board
- R4 The Board Of Supervisors remove the current non-conforming member of the board
- R5 The Board Of Supervisors appoint a member who is in compliance with requirements of The 1937 Act.

REQUEST FOR RESPONSES

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

FCERA Board of Trustees, R1, R2
Board of Supervisors, R3, R4, R5

Please be reminded that the responses from elected officials are due within 60 days of the release of this report and 90 days for others.

**THE
CITY OF FRESNO COMMITTEE**

JOINT COMMUNICATIONS DISPATCH CENTER

INTRODUCTION

An efficient communications system is vital for public safety. 9-1-1 dispatch has a direct effect on response time which is critical in life and death situations.

REASON FOR INVESTIGATION

Fresno County utilizes several different but parallel systems of communication and dispatch between first responders. An integrated dispatch center would alleviate duplication of services and shorten response times. According to a high ranking County official, "...two deaths in law enforcement have occurred as a direct result of the lack of a coordinated consolidated communications system".

BACKGROUND

The City Committee of the 2005-2006 Fresno County Grand Jury investigated the emergency communications aspect of the consolidation issue between the County and City of Fresno. For the purpose of this report, the committee only investigated the need for a Joint Communications Dispatch Center.

Dating back to the 1970's there have been innumerable discussions and promises to do something about integrating services provided by the County and City to their respective citizenry. Issues of money, location, or unwillingness of elected and appointed officials to give up turf have impeded any progress toward consolidating services. Regarding the matter of emergency communications, the list is long and well intended resulting in nothing of substance.

- In 1986-1987, the Fresno County Grand Jury investigated the need for a joint public safety building. Included in the responses to the report were comments from Sheriff Magarian acknowledging a future trend to include communications.
- The Little Hoover Commission Report adopted in March 1992, recommended consolidation of emergency services.
- The 2025 Fresno General Plan dated November 2002, adopted the following:
 - Police Services: E-24-e. Policy: Maximize coordination between the Police Department and the Sheriff's Department...and

continue to explore opportunities for combining and consolidating services when it provides a means to improve the level of law enforcement provided to the community.

- Fire Services: E-25. Objective: Ensure that fire protection, emergency medical and all emergency services are provided in an adequate, efficient and cost effective manner.
 - E-26-b. Policy: Provide for an average response time of not more than five minutes for all emergency requests for service within the metropolitan area.
- The RRM Design Group, hired by the Fresno City Council, developed and prepared a needs assessment for the City of Fresno in March 2006. This report showed a 61,000 sq. ft. communications building located within a larger complex.
- The Fresno City Council and the Board of Supervisors have each had separate committee meetings regarding the consolidation of communications, to no avail.

In January 2006, The Greater Fresno Area Chamber of Commerce hired a consulting firm, Management Partners, Inc., to review and recommend procedures for integrating the public safety departments of Fresno City and County. The report was submitted in May 2006.

- The Chamber's Public Safety Integration Committee said this project is a major undertaking, which has the potential to save significant tax dollars by eliminating duplication and improving services within the Greater Fresno Area.
- The Chamber of Commerce has offered to assume the role of facilitator regarding the process of integrating public safety services. The report established timelines for both parties to commit to planning and meeting before the end of the year.

The consolidation of public safety services has been accomplished in several large metropolitan areas throughout the country.

Integration of like communication services is feasible if the Fresno City Council and the Board of Supervisors would just walk across the street and seriously talk to each other.

- The location of a Joint Communications Dispatch Center should not be based on power, control or turf. The needs and best interests of the citizens of the County should be paramount.

- The various “discussion” phases of the past thirty years must come to an end. Now is the time for action.

DEFINITIONS

The following terminologies are used throughout this report:

- Consolidation – the merger of two or more entities
- Co-location – to place together; arrange side by side
- Integrate – to make into a whole by bringing all parts together; unify
- Interoperability – the ability of any public safety official to talk to whomever they need to, whenever they need to, when properly authorized

RESOURCES

- Interviews:
 - Current and former Fresno County and City officials
 - Fresno County Board of Supervisors and Fresno City Council
 - Greater Fresno Area Chamber of Commerce
 - Members of the media
- Tours:
 - Fresno County Sheriff’s Dispatch Center
 - Fresno Police Department Dispatch Center
 - American Ambulance Dispatch Center
- Research:
 - Prior Fresno County Grand Jury Reports
 - Little Hoover Commission Report, March 1992
 - The 2025 Fresno General Plan adopted February 2002
 - Fresno City Needs Assessment Report, March 2006
 - The Greater Fresno Area Chamber of Commerce Report produced by Management Partners, Inc., May 2006
 - Correspondence with County and City officials
 - Newspaper articles
 - Internet

FINDINGS

- F1 The functions of dispatching public safety employees and emergency services are basically the same at each dispatch center.

- F2 The Fresno County Sheriff, Fresno Police Department and American Ambulance have separate dispatch centers handling similar emergencies.
- Fresno County Sheriff:
 - Receives 9-1-1 emergency calls originating within Fresno County
 - Dispatches County fire calls to the California Department of Forestry (CDF)
 - Dispatches County ambulance calls to CDF per existing protocol.
 - Fresno Police Department:
 - Receives 9-1-1 emergency calls originating within Fresno City
 - Dispatches City fire calls to American Ambulance
 - Dispatches City ambulance calls to American Ambulance
 - American Ambulance:
 - Dispatches Fresno City Fire Department
 - Dispatches ambulance service within Fresno City in addition to Fresno, Madera and Tulare Counties
 - American Ambulance has a contract with Fresno County for Emergency Medical Services (EMS).
- F3 Existing dispatch centers use their own range of radio frequencies.
- The City and County dispatchers and first responders are unable to communicate with each other except by land line phones.
 - Response time to County islands is often delayed when no mutual aid agreement exists.
- F4 The lack of radio interoperability hinders communication between agencies.
- Homeland Security is concerned with first responders' inability to communicate with multiple emergency agencies nationwide.
- F5 At the Fresno Police dispatch, instances have occurred where there are not enough "lines" available to handle the 9-1-1 calls, and they must be queued while waiting for a dispatcher to answer.
- Callers could, in a worst case scenario, receive a busy signal and have to place another call.
 - For the Sheriff's dispatch, volume is less and busy signals do not occur.
- F6 The Fresno Police Department is scheduled to accept all cellular 9-1-1 calls originating within the city limits sometime in 2006.
- These calls are anticipated to increase call volume by 10 to 40 percent.
 - Space, additional staffing, as well as equipment will be a problem in the current location.
 - The State recommends that all calls be relayed within 10 seconds.
 - During peak hours, the City's dispatch can take up to 20 seconds per call.
 - Cellular volume has not been factored into this response time

- The national standard is to have 95 percent of all calls be successfully transferred to the responding agency within 10 seconds.
- F7 The City and County agencies involved agree on the need and feasibility for a centralized dispatch center.
- There is no written agreement between the City and County for the consolidation of the dispatch centers.
 - Location is the major disagreement between the City and County.
- F8 In March 2006, a needs assessment was completed by the RRM Design Group for the City; the County reviewed the report.
- F9 The Greater Fresno Area Chamber of Commerce hired Management Partners, Inc. to review public safety services and make recommendations for improvement.
- The first phase of the report was completed in May 2006.
 - Dispatch Services is one of ten sections in the report.

CONCLUSIONS

- C1 Integration of emergency services in Fresno County would improve services and be cost-effective.
- Integration will improve response time.
- C2 The Fresno City Council and the Fresno County Board of Supervisors have failed to devise or agree upon a consolidation plan.
- C3 The procedures and timelines proposed by the Chamber's report are viable and necessary.

RECOMMENDATIONS

- R1 Build a regional communications facility for the purpose of integrating all Fresno County and City 9-1-1 dispatchers with interoperability as the ultimate goal.
- Co-location may be the first step toward integration.
- R2 The recommendations in the report by Management Partners, Inc. must be followed.

COMMENDATIONS

The Greater Fresno Area Chamber of Commerce is to be commended for taking on the roll of an unbiased third party willing to facilitate discussions and negotiations between the County and City of Fresno to integrate emergency dispatch services.

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Fresno County Grand Jury requests responses as follows:

Fresno County Board of Supervisors: R1 and R2
Fresno City Council: R1 and R2

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

THE PLANNING APPROVAL AND BUILDING PERMIT PROCESS

INTRODUCTION

The City Committee of the 2005-2006 Fresno County Grand Jury examined the planning approval and building permit process of the Planning and Development Department (PDD) of the City of Fresno.

REASON FOR INVESTIGATION

Increased construction activity in recent years has created large numbers of permit applications slowing the planning approval and building permit process. The processing of applications has taken such an inordinate amount of time that in many cases businesses have given up and located elsewhere. This issue of time has discouraged commercial, industrial and residential development in the City.

BACKGROUND

The Planning and Development Department is responsible for planning the future development of the City of Fresno emphasizing where growth will occur and how it will be accomplished. After the planning approval process, construction documents are submitted for a building permit. This process is complex and time consuming. In the past, incomplete plans were accepted, revised and returned thus delaying the processing time. Once building begins, inspection of each phase of construction is under the purview of the PDD.

Reasons for the lengthy processing time include:

- Volume in the past 18 months to 2 years has doubled and sometimes tripled.
- Projects have gotten more complex. The General Plan promotes high density development which complicates the process.
- The process itself takes time. If the plans are incomplete, they have to be corrected and resubmitted for approval.
- Projects requiring California Environmental Quality Act (CEQA) or Environmental Impact Report (EIR) approval add months to the application process in the planning approval phase.

In 2004, the decision was made to hire outside firms to assist with the planning and building permit process. This practice is called outsourcing. The first contracts awarded were for \$49,999; a City ordinance mandates the City Council must approve all contracts for \$50,000 or more. Because those first contract firms proved reliable, accurate and timely, the department let two contracts for \$300,000 and \$500,000. The

City Council vote was 4 to 3 in favor. The most recent Council approval was unanimous.

To answer the criticisms from the building industry and the need to address the workload that sheer volume of applications has placed on the department, there has been a concerted effort to revamp and streamline procedures in the plan approval and building permit processes:

- Meetings have been instituted for architects, engineers, planners and developers informing them of updated policies and procedures.
- In October 2005, an Application Assistance Center, utilizing a manager and seven staff, was opened for the purpose of assisting plan preparers to make sure plans meet the specifications needed to obtain a building permit.
- As a result, there is no need for incomplete plans to be accepted, thus eliminating multiple submissions.
- The concept of combination-inspectors was instituted whereby one inspector could approve multiple phases of a structure thus saving time.
- New computer software has been installed to help track the internal functions of the department.
- Future computer upgrades will enable an applicant to track the exact phase or location of the application.
- A private company has been hired to evaluate PDD procedures that may be wasteful due to overlaps and duplication.
- Files and records are being scanned to compact disc (CD) in an effort to save space and make these records more accessible.

Many within the industry acknowledge the efforts being made by the Planning and Development Department. As Fresno continues to grow, efficient cost-effective procedures for the building industry are essential in order to entice prospective businesses to locate here.

SOURCES

- Leaders within the building industry
- City Councilmen
- Civic leaders
- Planning and Development Department
 - Interviews
 - Site visit
- 2025 Fresno General Plan
- News media

FINDINGS

- F1 The Application Assistance Center was started in October 2005, as an aid to project applicants helping to make sure their applications were properly filed as completed.
- A manager and staff of seven, representing components of the planning approval process, are placed together in one location as a way to consolidate resources for the public's convenience.
 - Here questions are answered, plans are coordinated, reviewed and changed as needed to save time and reduce the need to resubmit.
- F2 Meetings are held with architects, engineers, planners and developers to inform them of updated departmental policies and procedures.
- F3 Incomplete applications are no longer accepted.
- F4 Projects are being outsourced.
- Outsourced contracts are funded by monies generated from planning and building permit fees.
 - Outsourcing contracts of \$50,000 or more need City Council approval.
 - The first two outsourcing contracts resulted in a City Council vote of 4 to 3 for approval.
 - The last outsourcing contract received unanimous Council approval.
 - To date, approximately \$1.5 million in outsourcing contracts have been approved.
- F5 Fifty percent of the building inspectors are now trained as combination-inspectors qualified to check multiple phases of the building process.
- The use of combination-inspectors has helped reduce the number of individual inspections per day.
 - Four combination-inspector positions have been outsourced.
 - In January 2006, requests for inspections were 400 per day. By March 2006, the requests numbered 1350 per day.
 - Currently, inspections are down to a manageable 600-700 per day.
- F6 Projects that are determined to need further CEQA or EIR scrutiny require more time.
- F7 Plans have been finalized for reconfiguration of the public space within the department to better serve the public.
- Additional chairs and tables will be added and a large flat screen TV will be used for posting information.
 - Future plans include:
 - Computers within the department, for public use, to assist in tracking the progress of an application

- Software enabling the applicant to track an application from his home or business will be possible by logging onto the City's website using an assigned password or number.
- Applications submitted and processed via CD
- While improvements have been made, additional alterations will be needed to ensure optimum customer service.

CONCLUSIONS

- C1 The Application Assistance Center assists plan preparers in submitting a complete set of documents.
- C2 By not accepting incomplete plans, the department has eliminated the time consuming problem of multiple submittals.
- C3 Outsourcing reduces workload volume.
- C4 Combination-inspectors have resolved the problem of most inspection delays.

RECOMMENDATIONS

The 2005-2006 Fresno County Grand Jury recommends that:

- R1 The Planning and Development Department continue to refuse incomplete plans
- R2 The Planning and Development Department continue to outsource as necessary
- R3 All Planning and Development Department inspectors be trained as combination-inspectors
- R4 The Planning and Development Department continue to meet with architects, engineers, planners and developers as needed
- R5 The Fresno City Council continue to approve outsourcing contracts

COMMENDATIONS

The Planning and Development Department is making a concerted effort and progress toward a timely and efficient plan approval and permit process.

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Fresno County Grand Jury requests responses as follows:

Fresno City Planning and Development – R1, R2, R3, R4

Fresno City Council – R5

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

**THE
COMMUNITY HEALTH COMMITTEE**

MENTAL HEALTH DEPARTMENT FAILS ADOLESCENTS

INTRODUCTION

In Fresno County, severely disturbed adolescents receive minimal health services. Treatment at the onset of their mental illness is more cost effective than treating their problems as adults.

PURPOSE OF THE INVESTIGATION

The Health Committee investigated two areas that adversely affect our mentally ill youth:

- Inadequate services at Juvenile Hall
- The complete lack of inpatient care for critical cases

SUMMARY

Our investigation indicated that the lack of services for the severely disturbed adolescents was primarily due to insufficient funds. This is very short sighted. A few dollars spent now would save many dollars in the future.

INVESTIGATION

I. INPATIENT SERVICES

1. In December 2002, Cedar Vista Hospital closed the only adolescent inpatient facility in Fresno County.
2. There are NO inpatient beds in Fresno County available for adolescents who have attempted suicide or have life-threatening illnesses such as: schizophrenia, bi-polar disorders, abnormal depression, autism and other disabling conditions.
3. Youth with the highest risk of causing injury to themselves or others require inpatient psychiatric hospitalization.
4. Child and Family Services Department now contracts for inpatient facilities located outside Fresno County. In 2005, two hundred twenty (220) adolescents were hospitalized in other counties at a cost of \$868,728.

5. Inpatient treatment requires family counseling. Transportation for the families to these distant locations, often create insurmountable problems.
6. In 2002, a task force was formed for the purpose of addressing this problem. The Kaweah Delta Hospital (KDH) in Visalia offered to provide adolescent inpatient services for the surrounding counties of Fresno, Merced, Madera, Kings, Tulare and Mariposa.
7. KDH has a self-contained mental health hospital with an excellent twenty-two bed wing especially designed for adolescents.
8. A meeting has been scheduled in Fresno between KDH and representatives from the six counties, to formulate a plan, whereby each county would directly contract with KDH for inpatient services. Partnership is required to sustain this plan.
9. To date, Fresno and four other counties have signed Letters of Intent to explore the offer of contracts with KDH. A target date for implementation has been set for August 2006.
10. The proximity of Visalia enhances the opportunities for family counseling.
11. The Surgeon General reported, " that more than one in five U.S. children have a mental or addictive disorder that causes impairment". The National Center for Mental Health and Juvenile Justice found that 20% of disturbed youth have a serious mental disorder.
12. Untreated mental illness is the leading cause of mental disabilities associated with certain crimes and suicide, imposing high costs on state and local government. Billions of dollars are paid for emergency care, long-term nursing care, unemployment, housing, juvenile justice, jail and prison costs.
13. With early effective treatment, recovery from mental illness is possible for most adolescents.

II. JUVENILE HALL

14. There is a daily average of 265 youth incarcerated in the Fresno County Juvenile Hall.
15. Data from the National Center for Mental Health and Juvenile Justice in 2005, suggests that 65-100% of incarcerated youth have a diagnosable mental disorder, 20% with a serious disorder. The Fresno County Probation Department, which supervises the local facility, states these statistics are slightly higher for Fresno.

16. Severely disturbed adolescents are diagnosed as being so disturbed they require medication.
17. An average of 40 severely disturbed teenagers are housed each day in Juvenile Hall.
18. Only one child psychiatrist is assigned to Juvenile Hall for eight hours per week taking care of an average of 40 severely disturbed youth. Many of these adolescents are in Juvenile Hall because there is nowhere to send them for treatment.
19. The Probation Department has initiated a staff-training program that utilizes specific behavioral techniques for helping emotionally disturbed youth. It is not designed to address the severely disturbed juvenile.
20. Doctors of psychology can provide psychiatric counseling. Only medical doctors are permitted to diagnose and prescribe medication for the severely disturbed.
21. Crimes committed by severely disturbed youth are often related to their inability to control their actions. Incarceration usually exacerbates their problems.
22. The response to the 2004-05 Grand Jury recommendation for 24 hour mental health services for incarcerated youth, stated that a wraparound team (includes family/group counseling) would be provided, but there was no provision for psychiatric help for seriously disturbed juveniles.
23. The new Juvenile Hall provides an excellent wing especially designed for mentally ill teenagers. The Board of Supervisors has not proposed any additional psychiatric staff for the new facility.
24. Monies are available through grants, fellowships and the Federal Children System of Care to cover the cost of more psychologists and child psychiatrists.

FINDINGS

- F1. There are no facilities for inpatient adolescent mental health care in Fresno County. #1 & 2
- F2. Adolescents who are a risk to themselves and others require hospitalization. #3
- F3. Fresno County contracts for hospitalization of youth at distant locations. #4

- F4. Family counseling is problematic for many who have to travel long distances. #5
- F5. KDH in Visalia has an excellent facility for the hospitalization of adolescents with severe mental illness. #7
- F6. Fresno County can contract with KDH for adolescent inpatient care, if other central valley county partners join in to share the cost. #8
- F7. Fresno and four other counties have signed a Letter of Intent to contract for inpatient care at KDH. #9
- F8. Untreated mental illness is the leading cause of dysfunctional adolescent behavior. #12
- F9. Early diagnosis and adequate treatment can alleviate these behaviors. #13
- F10. An average of 40 severely disturbed youth reside in Juvenile Hall each day. #18
- F11. The staff training program as currently designed is not adequate for the severely disturbed. #19

CONCLUSIONS

- C1 Child psychiatrists are needed to diagnose and prescribe a treatment program for severely disturbed.
- C2 The provision for a child psychiatrist, eight hours per week, to address the needs of about 40 severely disturbed adolescents, is grossly inadequate.
- C3 Adequate services for the severely mentally disturbed youth in Fresno are woefully lacking.
- C4 Providing for these youth should be a top funding priority.
- C5 Funds expended at the onset of psychiatric problems are the most cost- effective solution.

COMMENDATION

The Probation Department is to be commended for the special staff training program that has been initiated, to teach the youth at Juvenile Hall better coping skills, which will help reduce recidivism.

RECOMMENDATION

- R1 That the new Juvenile Justice Center have one full-time child psychiatrist and two full-time child psychiatric psychologists and twenty-four hour emergency service.
- R2 That the Board of Supervisors expend sufficient monies from their general fund and explore all possible federal grant awards to provide mental health services for the severely mentally disturbed juveniles.

REQUEST FOR RESPONSES

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

Fresno County Board of Supervisors
Dr. Gary Zomalt, Department of Child and Family Services

Please be reminded that the responses from elected officials are due within 60 days of the release of this report and 90 days for others.

Sources: The Fresno Bee
Department of Child and Family Services
University of California at San Francisco Medical School in Fresno
Kaweah Delta Hospital Administration and Staff
Fresno Mental Health Board
Congressman Henry Waxman Report – 2005
Juvenile Court Judge
Fresno County Probation Department
Fresno County Mental Health Services Act (MHSA)
Three-Year Plan 2005-2008
Hospital Consultants

The committee attended the Fresno Mental Health Board meeting and toured Kaweah Delta Hospital.

PEER PRESSURE AND THE TEENAGE DRUG EPIDEMIC

WHEN JUST SAYING “NO” IS NOT ENOUGH

INTRODUCTION

Drug abuse is epidemic in Fresno County. Parents, families and communities are torn apart by the illegal use of drugs by their young. The Community Health Committee recognizes the need for a program that responds to the negative effects of peer pressure.

PURPOSE OF THE STUDY

This investigation looked for resources available to high schools for the prevention of drug use among teens.

SUMMARY

To determine the scope of teenage drug abuse and the effects of peer pressure, the Health Committee examined national, state and local surveys, attended a drug abuse seminar, interviewed school administrators and found a prevention program with a high rate of success.

I DISCUSSION

The Health Committee recognizes that drug abuse is epidemic with our youth, who desperately need a program which gives them more clout than to just say “NO”!

A. A national survey of high school students found the following results:

1. Drug use negatively affects student achievement.
2. Regular drug use may lead to early sexual activity.
3. Drug use is associated with an increased risk of suicide.
4. The earlier that drug use begins, the more likely it will be a lifelong problem.
5. Youth who are heavy alcohol consumers are more likely to use drugs.

- B. The Fowler High School Healthy Kids Survey of 2004 showed the following:
 - 1. 8% of seventh grade students were using or had used drugs
 - 2. 21% of ninth grade students were using or had used drugs
 - 3. 48% of eleventh grade students were using or had used drugs
 - 4. That 93% of students surveyed believed use of drugs was harmful.
- C. San Clemente High School reported the following:
 - 1. The percentage of students that were offered drugs at school was 45%.
 - 2. The percentage of students that were offered drugs off campus was 62%.

II EFFECTS OF PEER PRESSURE

- A. Adolescent psychologists report that:
 - 1. Teenagers are highly susceptible to peer pressure.
 - 2. Teenagers ego systems are in a fragile state of development.
 - 3. Adequate parenting does not always overcome the negative suggestions of peers.
- B. A relatively new program, VOLUNTARY DRUG TESTING PROGRAM (VDTP), which is readily available at no cost, is helping many students to say "NO" to offers of drugs. Locally, four high schools are using this program: Fowler, Kingsburg, Clovis and Washington Union. Parents agree for their student to participate in random testing. The results of a positive test are sent directly to the parent with suggestions for help. The names of these students are NEVER given to the school.

III POSITIVE ASPECTS OF VDTP

- A. San Clemente High School in Southern California has offered VDTP for the past four years.
- B. Their recent survey showed the following results from the program:
 - 1. 60% responded that VDTP did prompt a conversation about drugs

2. 26% responded that VDTP reduced the frequency of drug use and among freshmen it was 40%
 3. 26% responded that they used VDTP as a reason to say “NO” to drugs
 4. 48% responded that VDTP made it easier to avoid using drugs when confronted by peer pressure
 5. 57% responded that they wanted the program to continue
 6. Participation has increased significantly from 924 in 2002 to 1607 in 2005.
- C. During the past four years, the participation in the VDTP at San Clemente High School has increased significantly each year.
- D. The principal and athletic director stated the program has had a positive effect on student attendance, dropout rates and academic achievement.
- E. The American Civil Liberties Union has reviewed the program and found no legal grounds to challenge it.

IV ADMINISTRATIVE ASPECTS OF VDTP

- A. The school participation is limited to the following:
1. Explaining the program to parents and students
 2. Obtaining the parent-student consent form
 3. Providing a test site
- B. No legal liability for the school district
- C. The Fresno County Office of Education will assist in obtaining grants from the state and federal programs for “Safe and Drug Free Schools”.
- D. The National Student Assistance Association provides a “how to” booklet entitled “What You Need To Know About Starting a Student Drug-Testing Program”. They can be reached at 1-800-257-6310 or visit their web site at <www.nasaa.us>.

V THE COST OF DRUG ADDICTION

- A. If a student starts using drugs in high school and becomes an addict, society not only loses their ideas and energy, but pays a huge price for treating their physical problems and a greater price for their criminal acts, often necessary to support their habit.
- B. The cost of incarceration in Juvenile Hall is \$170 per day.

FINDINGS

- F1 Drug use negatively affects student achievement.¹
- F2 Regular drug use may lead to early sexual activity.²
- F3 Drug use is associated with an increased risk of suicide.³
- F4 The earlier drug use begins, the more likely it will be a lifelong problem.⁴
- F5 Youth who are heavy alcohol consumers are more likely to use drugs.⁵
- F6 Drug use and experimentation with drugs is prevalent in high schools.⁶
- F7 Teenagers are highly susceptible to peer pressure.⁷
- F8 The “Voluntary Drug Test Program” (VDTP) is a successful random drug testing program.⁸
- F9 VDTP prompts conversation about drug usage between parents and students.⁹
- F10 VDTP reduces frequency of drug use among participants.¹⁰
- F11 VDTP has a positive effect on academic achievement and drop out rates in high schools.¹¹

¹ I A 1

² I A 2

³ I A 3

⁴ I A 4

⁵ I A 5

⁶ I B & C

⁷ II A 1

⁸ II B

⁹ III B 1

¹⁰ III B 2

¹¹ III D

- F12 There are no legal obstacles to the VDTP.¹²
- F13 Grants are available for the cost of testing.¹³
- F14 The office of Fresno County Schools can assist in obtaining grants and implementing the program.¹⁴
- F15 Four Fresno County schools are successfully using VDTP.¹⁵
- F16 San Clemente High School has had four years of positive success in the VDTP.¹⁶
- F17 The cost of drug treatment and incarceration is enormous.¹⁷
- F18 Preventing the onset of drug use is the most effective and cost-effective measure.¹⁸

CONCLUSIONS

- C1 Drug use has many detrimental long-term effects.
- C2 Prevention saves lives and taxpayer money.
- C3 The Voluntary Drug Testing Program has proven to be a successful prevention Program.
- C4 The VDTP can be cost-free.
- C5 Help is available to start a VDTP.

COMMENDATIONS

The Office of the Fresno County Schools is to be commended for their efforts in addressing the drug epidemic rampant in the Fresno County High Schools.

The Fresno County high schools of Fowler, Washington Union. Kingsburg and Clovis are to be commended for their implementation of the VDTP.

¹² III E IV B
¹³ IV C & D
¹⁴ IV C
¹⁵ II B
¹⁶ A, B, C, D
¹⁷ V A & B
¹⁸ V A

RECOMMENDATION

R1 The Health Committee of the Fresno County Grand Jury recommends that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-08 school year.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses within 60 days of the receipt of this report:

RESPONDENTS

BOARD OF TRUSTEES
CARUTHERS UNIFIED SCHOOL DISTRICT
NO. 1 TILLER ST.
CARUTHERS, CA 93609

BOARD OF TRUSTEES
CENTRAL UNIFIED SCHOOL DISTRICT
4605 N. POLK AVE.
FRESNO, CA 93722

BOARD OF TRUSTEES
COALINGA-HURON UNIFIED SCHOOL DISTRICT
657 SUNSET ST.
COALINGA, CA 93210

BOARD OF TRUSTEES
FIREBAUGH-LAS DELTAS UNIFIED SCHOOL DISTRICT
1976 MORRIS KYLE DR.
FIREBAUGH, CA 93622

BOARD OF TRUSTEES
FRESNO UNIFIED SCHOOL DISTRICT
2309 TULARE ST.
FRESNO, CA 93721

BOARD OF TRUSTEES
GOLDEN PLAINS UNIFIED SCHOOL DISTRICT
22000 NEVADA ST.
SAN JOAQUIN, CA 93660

BOARD OF TRUSTEES
KERMAN UNIFIED SCHOOL DISTRICT
151 S. FIRST ST.
KERMAN, CA 93630

BOARD OF TRUSTEES
KINGS CANYON UNIFIED SCHOOL DISTRICT
675 W. MANNING AVE.
REEDLEY, CA 93654

BOARD OF TRUSTEES
LATON UNIFIED SCHOOL DISTRICT
P.O.BOX 248
LATON, CA 93242

BOARD OF TRUSTEES
MENDOTA UNIFIED SCHOOL DISTRICT
115 MCCABE AVE.
MENDOTA, CA 93640

BOARD OF TRUSTEES
PARLIER UNIFIED SCHOOL DISTRICT
900 NEWMARK AVE.
PARLIER, CA 93648

BOARD OF TRUSTEES
RIVERDALE JOINT UNIFIED SCHOOL DISTRICT
3086 W. MT. WHITNEY
RIVERDALE, CA 93656

BOARD OF TRUSTEES
SANGER UNIFIED SCHOOL DISTRICT
1905 7TH ST.
SANGER, CA 93657

BOARD OF TRUSTEES
SELMA UNIFIED SCHOOL DISTRICT
30036 THOMPSON AVE.
SELMA, CA 93662

BOARD OF TRUSTEES
SIERRA UNIFIED SCHOOL DISTRICT
29143 AUBERRY ROAD
PRATHER, CA 93651

APPENDIX A

PROCEDURES EMPLOYED

The Health Committee:

1. Attended a drug seminar hosted by MENTAL HEALTH SYSTEMS, INC. The speakers included a nationally known Medical Director of a drug treatment center, The coordinator of the National Methamphetamine & Chemicals Initiative, a Fresno County Superior Court Judge and the administrator of the Fresno County Alcohol & Drug Program.
2. Met with the Community Health Committee of the Fresno Madera Medical Society
3. Interviewed the following:
 - a. Fowler Unified School District
 - b. Office of the Fresno County Schools
 - c. Fresno County Office of Education Drug Program
 - d. Office of Fresno County Probation Department
 - e. A Juvenile Court Judge
 - f. Psychologists specializing in adolescent drug treatment
4. Reviewed the following documents:
 - a. "CUSD Starts Drug Testing" Clovis Independent Newspaper, 2-17-06
 - b. Fresno Bee Editorials
 - c. Fowler High School Drug Survey, Spring 2004
 - d. San Clemente High School VDTP Report, Fall 2005
 - e. California Adolescent Health Collaborative Newsletter, 10-22-05
5. Obtained statistics from the following sources:
 - a. Fresno County Juvenile Hall
 - b. www.nsaa.us
 - c. www.fcoe.k12.ca.us

**THE
COUNTY OF FRESNO COMMITTEE**

FRESNO COUNTY CORONER

Final Report

INTRODUCTION

Pursuant to previous Grand Jury recommendations and the Board of Supervisor's (BOS) acknowledgement of the necessity of a new coroner facility, the 2005/2006 Fresno County Grand Jury investigated the facilities of the existing County Public Administrator-Coroner-Public Guardian (County PA-Coroner-PG). In the course of the investigation, the Grand Jury visited the offices and interviewed several County officials.

FINDINGS

- F1 In March 2003, the Board of Supervisors approved the establishment of a capital project for a new PA-Coroner-PG facility.
- \$1.3 million had been appropriated to partially fund the project.
 - \$500,000 was taken back by the BOS and placed in the general fund to be used for other purposes.
 - The BOS at one time suggested the University Medical Center basement as a possible location.
 - There have been discussions regarding co-location of the crime lab and public health services at a new County PA-Coroner-PG facility.
- F2 In March 2006, Fresno County officials approved selling revenue bonds that can only be used for new buildings.
- F3 The current facility was built in 1948 and has been occupied by the PA- Coroner-PG since 1980.
- The building has 2 levels with approximately 13,100 sq. ft.
 - The current staff numbers 40.
 - Minor renovations have been done to upgrade the existing facilities, however, expansion at this location is not feasible.
 - The electrical and telephone systems are at their maximum capacity.

- The existing building does not meet Federal/State American's with Disabilities Act (ADA) requirements. No alterations have been made to comply with these mandated regulations.
 - County management took steps to accommodate an employee with ADA limitations by converting a downstairs area to an office space. Portable cooling and heating devices were brought in for temperature control.
 - The building is not wheel chair accessible.
 - There is no ADA parking.
- The mobile morgue unit scheduled for delivery in August 2006, is too large and heavy to navigate over the existing canal bridge entrance.

F4 There are concerns regarding working conditions and safety issues.

- The first level ground floor offices are occupied by the PA-PG.
- The second level office area is occupied by the Coroner and accessible only by stairs.
- Ceiling sprinklers are installed in the work area. However, if a fire were to occur in the stairwell leading to the second level, there is no alternative exit for employees and the visiting public.
- There is no heating or cooling in the ground floor work area.
- The building is not properly ventilated and odors from the morgue on the ground floor permeate all work areas.

F5 The Needs Assessment and Architectural Design are complete.

- The new facility will be 62,000 sq. ft. and accommodate up to 72 staff.
- Land acquisition has not been done. Several sites have been identified. Costs have increased on some sites of interest and some have been sold.
- A morgue of this size could be used as a regional facility in case of a national disaster or other types of catastrophic events.
- The refrigerator storage space for bodies will increase from 50 to 200.
- The disposal of waste has at times been an issue of discussion. Organs, body parts, and the like are properly disposed of per existing state

regulations and do not enter the sewer system. Other types of disposable wastes from the morgue are similar to normal household waste that runs through the sewer lines.

CONCLUSIONS

- C1 The PA-Coroner-PG function has outgrown the current facility.
- C2 Expansion at the present location is not an option.
- C3 ADA compliant facilities must be addressed.
- C4 The continuing growth of Fresno County requires a larger and more technically advanced state of the art facility.
- C5 A new facility is urgently needed.

RECOMMENDATIONS

The 2005-2006 Fresno County Grand Jury recommends that:

- R1 Construction of a new state of the art Coroner's office, morgue, and autopsy suite be given top priority by the Fresno County Board of Supervisors.
- R2 Construction should not be contingent upon the co-location with other public health offices.
- R3 This project requires immediate resolution and action.

REQUEST FOR RESPONSES

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

Fresno County Board of Supervisors: R1, R2, and R3

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

FRESNO COUNTY'S PENSION PLAN FRESNO COUNTY GRAND JURY 2005-2006

INTRODUCTION

The Fresno County Retirement Plan (the Plan) is an employee's dream and an employer's nightmare. The Plan's \$2.338 billion trust fund is invested on behalf of the members of the Plan. If investment returns exceed projections made by the Actuary with the concurrence of the Retirement Board, the Retirement Board decides how to distribute the "excess earnings" to the retirees. The Board of Supervisors (BOS) is then pressured by the retirement association, employees, retirees and the 23 bargaining units to make those temporary distributions permanent. If investment returns fall short of the actuarial projection, the County is required to fund the "unfunded actuarial liability" that is, add more money to the retirement fund.

A simplified example:

If the Plan's fund were to generate 1% above the projected returns for a period of 5 years, it would generate in excess of \$116,000,000 for the benefit of the members of the Retirement Plan over and above their guaranteed pensions. Conversely, if the Retirement Fund underperforms by 1% for 5 years, it would cause a shortfall in excess of \$100,000,000. Most of this liability is the County's (as opposed to the employees).

As the Fund becomes larger even modest shortfalls in investment returns produce a larger and larger liability in terms of absolute dollars. That is, 1% of \$100 is \$1 whereas 1% of \$1,000,000 is \$10,000.

REASON FOR INVESTIGATION

Recently there have been several very large corporations that have been forced to lay off workers and/or restructure their benefit plans because they could no longer afford their Defined Benefit Pension Plans and rising healthcare costs. Grand Juries from other counties have recommended that all California Grand Juries investigate the costs of their respective Defined Benefit Pension Plans. Fresno County officials, themselves, listed the indebtedness caused by the Plan as one of the County's challenges. For these reasons, we decided that it would be prudent to investigate the Plan and its impact on the taxpayers of Fresno County.

It should be noted that employees are required to contribute to the Plan. Our investigation, however, focused on the cost to Fresno County and its taxpayers.

BACKGROUND

Fresno County offers its employees a defined benefit retirement plan. In a defined benefit plan the retiree will receive a *guaranteed* pension amount which is based on final compensation, length of service and age at retirement.

The basics of the Fresno County Retirement Plan were established under a state law, "The County Employees' Retirement Law of 1937" the Act), the stated purpose of which was "...to recognize a public obligation ...to employees who become incapacitated by age or long service and its accompanying physical disabilities...".¹ The Act requires the establishment of a retirement board which has the fiduciary duty as trustee to administer the retirement plan.

The Board of Supervisors has the authority to change benefits within certain parameters of the law. The benefits as currently offered are a result of the basics required by the Act including Cost of Living increases, negotiated enhancements such as lowering the retirement age or counting various types of overtime and the "Ventura Settlement". Unvested, i.e., not permanent, benefits are granted by the Fresno County Employees Association Retirement Board (Retirement Board) as a result of "excess earnings". Fresno County retirement benefits are the most generous in the State²

Since 1998, the County has had to borrow 3 times to cover its pension obligations. In 1998, the County borrowed \$184,910,000. In March of 2002, the County partially refinanced its Pension Obligation Bonds (POBs) and increased the debt to \$328,405,000. In March of 2004, once again the County borrowed and refinanced. This time it borrowed \$402,000,000. As of June 30, 2004, the County's obligation was 98% funded³ and the County's outstanding Pension Obligation Bonds totaled \$546,064,000⁴. As of December 15, 2005, the total amount of principle and interest of the County's Pension Obligation Bonds is \$1.18 billion (\$1,180,215,000).⁵

RESOURCES

The Grand Jury extensively investigated the Plan. The resources examined included County elected officers, County employees, Retirement Board Members, Annual reports of the Plan and the County, actuarial reports and analysis, Marin County Grand Jury Report and extensive use of the internet.

¹ County Employees Retirement Law of 1937, Title3 , Article 1

² Corroborated testimony

³ FCERA Actuarial Valuation as of June 30, 2004, page 1

⁴ Fresno County Annual Report as of June 2004, page 11

⁵ Spreadsheet provided by a County official

FINDINGS

- F1 In March 2004, the Board of Supervisors issued \$402,000,000 in POBs⁶ to “fund” or cover the promised benefits to those who participated in the County’s retirement plan *at that time* and to partially retire previously issued Pension Obligation Bonds.
- The POBs are general obligations of Fresno County.⁷
 - The POBs account for 70% of the County’s debt as of June 30, 2004⁸.
 - The POBs are scheduled to be paid off over a 30 year period.⁹
 - The last payment which is due 2034 is a balloon payment of approximately \$62,500,000.¹⁰
 - The total liability of the POBS is \$545,852,000 in principle and \$634,363,000 in interest as of December 15, 2005.¹¹
 - This amounts to roughly \$1,361 per person living in Fresno County. (1,180,000,000 /867,000).¹²
- F2 Fresno County has budgeted \$77,587,680¹³ for employer retirement contributions for 2005-06.
- \$52,607,936 is for the current year’s obligation.
 - \$24,979,744 to be placed in a “sinking fund” (savings account) for debt service on the POBs.
 - Thus the County’s 2005-06 contribution of \$77.6 million is about 55% of property taxes (\$142,791,000)¹⁴ collected for Fiscal Year 2004-05.
- F3 In 1997, there was a lawsuit in Ventura County the outcome of which would have affected all California counties’ retirement plans. In 2000, the Fresno County Board of Supervisors signed an agreement¹⁵ with our local bargaining units.
- This agreement is known as “the Ventura Settlement”.
 - At that time the Fresno County Retirement Fund was reported to have excess earnings of \$288,000,000.¹⁶

⁶ County of Fresno, Taxable Pension Obligations Bonds, Series 2004, Prospectus dated March 10, 2004, front cover

⁷ Prospectus, front cover.

⁸ Fresno County Annual Report as of June 30, 2004, page 11

⁹ Prospectus, page 14

¹⁰ Prospectus, page 14

¹¹ Spreadsheet provided by the Auditor/Controller

¹² U.S. Census Bureau, @quickfacts.census.gov

¹³ Per Memorandum from a County official

¹⁴ Fresno County Annual Report FY 2005, page 7

¹⁵ Settlement signed Oct 20, 2000 and Nov. 7, 2000

¹⁶ Testimony of County official

- At the time of the settlement the estimated cost of the benefits granted was \$288,133,000.¹⁷
 - Using an actuarial report as of June 1998 and no projections of the impact of increased benefits, the Board of Supervisors granted increased benefits for life for those who were covered by the agreement.
 - Included in the agreement are “retirees, deferred retirees, beneficiaries, and employees who are members of the FCERA...”¹⁸
 - The liability produced by the Ventura Settlement as of June 30, 2004 was \$534,837,413.¹⁹
- F4 A 1995 Amendment to the 1937 Act requires that the Board of Supervisors “*make public* (our italics) at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees.”²⁰
- F5 On May 7, 2003, the Board of Supervisors sued the Retirement Association over the calculation of final pay.²¹
- This calculation was known as “The Fresno Method”.
 - The Board of Supervisors has prevailed and final pay is now calculated as “...average annual compensation earnable by a member during any year elected by a member...or...requires that any year elected by a member be a period of 365 consecutive days.”²²
 - This ruling is being appealed by the Fresno Deputy Sheriffs Association.²³
- F6 Safety members have greater pension benefits than general members.
- Included in the Safety Member Category are all “sworn officers” and firefighters. For a complete list refer to: www.fcera.org and search on Active Members, Member Handbook, Membership.
 - Fresno County currently allows its safety members to retire at age 50 with 5 years of service or any age after 20 years of service.²⁴ Fresno County includes in “final pay” such items as selected types of overtime, pay in lieu of vacation, uniform allowances and standby pay. For additional examples of items included in final pay for purposes of pension benefit computation refer to: www.fcera.org and search on Board of Retirement, Agendas, April 19, 2006, Item 13, Exhibit 1.

¹⁷ Settlement signed Oct 20, 2000 and Nov. 7, 2000

¹⁸ Settlement signed Oct 20, 2000 and Nov 7, 2000, Section 5.

¹⁹ Memo from County official dated Feb 20, 2006

²⁰ Law, Article 2.7, Paragraph 31515.5

²¹ Court case 03 CE CG 01569

²² Court case 03 CE CG 01569, Judgment, page 3, Section 1

²³ Testimony

²⁴ Retirement Handbook Insert, Table 2

F7 The composition of the Board of Retirement appears to be in violation of the 1937 Act because we read the intent of the Act to utilize the expertise of persons who are not affected by the outcome of the decisions other than as a taxpayer. Retirees are affected by the decisions of the FCERA board. The Act requires that the retirement board shall consist of:

- County treasurer
- Four “shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors”²⁵
- Two general members elected by the general members
- One safety member (and one alternate safety) elected by the safety members
- One retired member elected by the retired members

F8 Assemblyman Keith Richman, MD of the 38th State Assembly District representing parts of Los Angeles and Ventura counties has introduced Assembly Constitutional Amendment No. 23.²⁶ This amendment offers a new retirement plan for public employees.

Some of the features are:

- New plan affects only employees hired after July 1, 2007
- A Defined Benefit feature which defines such factors as final salary, normal retirement age and safety officers
- A Defined Contribution feature which would function much like a 401 (k) which offers such features as portability, self investment and ability to pass on in an estate

F9 We repeatedly heard excuses for past decisions that one would not expect of individuals vested with this level of public trust.

F10 Fresno County currently offers a two tiered retirement plan.

The Tier I formula is:

- A. General Members
 - At age 55 the formula is $\text{earnable compensation} \times 2.5\% \times \text{years of service}$.
- B. Safety Members
 - At age 55 the formula is $\text{earnable compensation} \times 3.275\% \times \text{years of service}$.

The Tier II formula is:

²⁵ Law, Article 3, Paragraph 31520.1

²⁶ Assembly Constitutional Amendment No. 23, Introduced September 8, 2005.

- A. General Members
 - At age 55 the formula is $\text{earnable compensation} \times 2.0\% \times \text{years of service}$.
- B. Safety Members
 - At age 55 the formula is $\text{earnable compensation} \times 3.0\% \times \text{years of service}$.

CONCLUSIONS

- C1 The retirement benefits as currently defined are forcing Fresno County further and further into debt. In the past 8 years Fresno County has gone from *zero* pension debt to \$545,852,000 (principle only). Based on this rate of acceleration, the County will be facing insurmountable debt in the near future.
- C2 The decision making, negotiating and administering of the Plan has been done largely by people who stand to benefit. The current Retirement Board make up is 6 members who do benefit and 3 who do not benefit. The members of the Board of Supervisors all benefit unless they choose to opt out.
- C3 Benefits are being extended or accrued to individuals who are not members of the class defined in the Ventura Settlement.
- C4 We find no documentation that shows that the Board of Supervisors is complying with the law as described in Finding F4 (publication of impact of salary and benefits increases).
- C5 The Board of Supervisors is being asked to make decisions that require knowledge of a complicated law, understanding and evaluating actuarial reports and financial statements.
 - Some of its long term and major impact decisions have been made with outdated actuarial reports.
 - It has made increases in retirement benefits permanent assuming the stock market would continue to make positive advances.
 - These decisions have very large and long term financial consequences for the citizens of Fresno County.
- C6 The Defined Benefit Plan and the way it is currently administered is a problem for the state and the counties and is recognized as such.

RECOMMENDATIONS

- R1 The Board of Supervisors must engage an outside, independent firm to conduct a Fiduciary Audit of the Plan. This audit is not a financial audit but

rather one that investigates the internal administration of the Plan including, but not limited to, compliance with the law and the Ventura Settlement. The audit will also review Plan documents and ensure that proper disclosures have been made to employees and retirees.

- R2 The Board of Supervisors must hire the services of outside, independent pension administrators, financial professionals and attorneys who are not associated with *city, county or state* government to advise it on all decisions regarding pensions.
- R3 The Board of Supervisors must require current actuarial information for its decision making.
- R4 After June 30, 2007, Fresno County must offer new hires the Tier 2 retirement plan only.
- R5 The Board of Supervisors must notify the bargaining units that the County will not increase any retirement benefits.
- R6 The Board of Supervisors must seek outside legal counsel to explore the feasibility of renegotiating the Ventura Settlement.
- R7 The Board of Supervisors must comply with the law as to the number of appointees to the Retirement Board who are not connected with the County Government.
- R8 FCERA must require continuing pension management training for its Board members and chief administrator.
- R9 The FCERA Board must not grant any benefits from “excess earnings” unless they are fully funded, i.e., enough money is set aside to pay that benefit through the life expectancy of the youngest person granted that benefit *or grant only one-time lump sum distributions*.
- R10 The Board of Supervisors must actively support legislation to amend the California State constitution to modify retirement benefits from a Defined Benefit Plan to a Defined Contribution Plan or a mixture of the two. An example of such legislation is a proposed constitutional amendment ACA 23 which was introduced by Keith Richman. For a complete text of the amendment go to www.leginfo.ca.gov and search on aca 23.

REQUEST FOR RESPONSES

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

From the Board of Supervisors: R1 through R7 and R10.

From the FCERA Board of Retirement: R8 and R9

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

**THE
EDUCATION COMMITTEE**

FRESNO UNIFIED SCHOOL DISTRICT

INTRODUCTION

Has conflict of interest clouded the decision making regarding Fresno Unified School District's health benefits?¹ Fresno Unified School District's Health Plan has been allowed to run amuck to the tune of a \$1,100,000,000 unfunded liability.² This Health Plan was largely responsible for the District's financial crisis in 2004-2005 and its excesses have come at the detriment of the students. As in most cases of "Management by Crisis", the Board of Education (Board) took some temporary action in 2005, to mitigate the bleeding. Much more needs to be done to tame this financial albatross.

REASON FOR INVESTIGATION

Prior Grand Juries have focused on the District's dismal academic and financial performance. In January 2005, *Choosing Our Future*, a blueprint to the future of FUSD was released. Also, in 2005, a new Superintendent was hired. The 2005-2006 Grand Jury with these events in mind, decided to concentrate on the financial aspect of the District.

BACKGROUND

Prior Boards have made a series of inept financial and personnel decisions. More than twenty-five years ago, the District was strapped for funds. In lieu of pay raises, the Board agreed to increase some employee benefits. Some still point to this decision, if the question of *excess benefits*³ is raised. In fact, since then, not only have the District's employees received higher and higher benefits, but also higher and higher compensation. Today, the employees' total compensation per average daily attendance (ADA) is the highest among the State unified school districts, while the District is near the bottom academically and financially. These *excess benefits* have deprived the students in 2004-2005, of \$58,005,764 if the Districts' total compensation per ADA were just at the State average.⁴ That is, \$58 million that could go toward restoring programs that have been cut due to these excesses.

¹ F13 and F14

² *Choosing Our Future*

³ Those benefits that are above the State average

⁴ Ed-Data website, www.ed-data.k12.ca.us/finance/MC-FinanceResults.asp

RESOURCES

The Grand Jury extensively investigated the District's Health Plan costs and general administration. The resources examined included County elected officials, all members of the Board of Education, District employees, District's financial information, Health Plan Summary, *Choosing Our Future* and extensive use of the internet.

FINDINGS

- F1 The District is self-insured for employees' health benefits.
- F2 Prior to July 2005, *lifetime* health benefits were offered not only to every District employee who had worked 16 years and of the age 57 ½, but also to spouses and *dependents*.
- F3 The lifetime health benefit costs were borne solely by the District with zero contribution from the beneficiaries.
- F4 The estimated cost of this health benefit is approximately \$25,000,000 per year.⁵
- F5 The projected annual growth rate of health benefit costs for the next several years is 10% to 15%, in other words, the cost would double from \$25 million to \$50 million in 5 to 7 years.
- F6 In August 2005, ratification of a negotiated three year bargaining agreement with Fresno Teachers Association, started to address this previously uncontrolled cost by implementing the following in regard to retiree health benefits:⁶
- Employees hired on or after July 1, 2005, are offered post-retirement health benefits after working 25 years with the District and attaining age 60.
 - The coverage for these employees, their spouses *and qualified dependents* will be for a definite period of five years.
 - The District's contribution to the Health Fund, for the next three years, is now capped at \$13,649 per active eligible employee, or approximately \$97,000,000 for Fiscal Year (FY) 2005-2006.⁷
 - Any shortfall in the Health Fund will be made up by additional employee contributions to the Fund.
 - Retirees will now contribute a small amount toward the cost of their health benefits. Pre age 65 retirees contribute at the same rate as active employees, \$30 to \$70 per month depending on marital status and *qualified dependents*.

⁵ Information provided by District

⁶ Information provided by District

⁷ Information provided by District

- Post age 65 retirees will not contribute based on the same rate as active employees, but will be assessed a small premium of \$10 per month per retiree, spouse and/or *qualified dependents*.
- F7 The negotiated agreement will result in a significant change in the projected cost of the health benefits for both the short-term and long-term.
- In the short-term, during the three year life of the agreement, the most the District's contribution to the Health Fund can increase is by the percent of Revenue Limit received from the State.
 - In the long-term, the estimated long-term liability of post-retirement health benefits decreased from \$1,100,000,000 to \$792,946,371 a decrease of 28%.⁸
- F8 The current stabilization of the District's financial condition is in large part due to the results of the health care benefits negotiated agreement.⁹
- F9 The \$792,946,371 unfunded health liability is not recorded on the District's financial statements. Governmental Accounting Standard Board Statement No. 45 (GASB 45) requires that 1/30th or approximately \$ 26,431,546 of the unfunded healthcare liability be recognized as an expense every year beginning after December 15, 2006.¹⁰
- F10 The Board and the bargaining units have agreed to manage the health benefits and associated cost by forming a new board called the Joint Management Health Board (JIMBY). Under this agreement, the Board representative has one vote and the bargaining units have one vote.
- F11 *13 out of 17* members of the JIMBY Board are recipients of District health care benefits.
- F12 *6 out of 7* members of the Fresno Unified School Board are recipients of District health care benefits.
- F13 FUSD is California's 4th largest school district.¹¹
- F14 FUSD has approximately 80,760 students (2004-2005)¹²
- F15 In FY 2004-2005, FUSD had a budget of \$869,000,000.¹³
- F16 The District's Health Plan Summary document is dated December 1, 1996.

⁸ Information provided by District

⁹ Information provided by District

¹⁰ *Choosing Our Future*

¹¹ District website, <http://www.fresno.k12.ca.us/facts.html>

¹² Ed-Data website, www.ed-data.k12.ca.us/finance/MC-FinanceResults.asp

¹³ District website, <http://www.fresno.k12.ca.us/facts.html>

F17 The District's health care contribution per employee has risen from \$6,900 in 2000, to \$13,649 in 2005, a 97.8% increase in just five years.¹⁴

F18¹⁵

Expenditure per Student by Type	FUSD	State Average	Variance	Total Variance
2004-2005		Unified School Districts	per ADA	
Average Daily Attendance(ADA)	75,137	n/a		
Certificated Salary/ADA	\$ 3,901	\$ 3,664	\$ 237	\$17,807,469
Non-Certificated Salary/ADA	\$ 1,090	\$ 1,094	\$ (4)	\$ (300,548)
Employee Benefits/ADA	\$ 1,984	\$ 1,445	\$ 539	\$40,498,843
Total	\$ 6,975	\$ 6,203	\$ 772	\$58,005,764

CONCLUSIONS

C1 Unfunded liability

- Monies that should be going to students' education are going toward excessive health benefits.
- The District's health benefits must be brought in line with State averages as soon as possible.
- The District has demonstrated that it is not capable of controlling a pay-as-you-go self-insured plan.
- The District's Summary Health Care Plan Document is out of date. The Summary Plan is currently in the process of being updated.

C2 Board of Education

- The Board is operating a \$900,000,000 business.
- The paramount qualifications of a board member should be management and financial expertise.
- Many board members lack the financial expertise to make informed decisions.
- Board members should be free from *conflict of interest*.
- The Board does not seem to have the political will or a sense of urgency in further reducing the unfunded health liability.

C3 JIMBY

- Board members should be free from *conflict of interest*.

¹⁴ *Choosing Our Future*

¹⁵ Ed-Data website, www.ed-data.k12.ca.us/finance/MC-FinanceResults.asp

RECOMMENDATIONS

- R1 The Board must hire an independent outside insurance plan consultant to assist in putting the Health Plan out to bid and securing a new plan. The District must get out of the health insurance business.
- R2 Concurrently, the Board must continue to reduce the unfunded healthcare liability by further increasing employee premiums and copayments and limiting benefits to achieve parity with the State average.
- R3 The Board must freeze increases to Certificated employees until their salary/ADA is in line with the State average.
- R4 We recommend that the Board take a leadership role in obtaining an intensive professional training program in fiscal management and oversight. The trainers should be outside consultants who specialize in this type of training. Key FUSD staff should be included to speak to the specifics of the District. This training *must* be mandatory. This recommendation unfortunately reiterates last year's Grand Jury's findings and recommendations. The Grand Jury considers this an urgent need which **MUST BE ADDRESSED** with action not words.
- R5 Programs that have been negatively affected by these excesses, such as art, music and technical-vocational education, must be revisited as savings are realized.

COMMENTS

- The voters should to be aware the FUSD Board is running a \$900,000,000 business the paramount qualifications for which must include management and financial expertise.
- Since a large part of the FUSD's recent financial crisis was due to out of control health benefits, voters must consider candidates for the Board who do not have a *conflict of interest* with these issues, i.e., District employees, retirees or spouses thereof.

REQUEST FOR RESPONSES

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

From the FUSD Board of Education: R1 through R5.

Please be reminded that the responses from elected officials are due within 60 days of the release of this report and 90 days for others.

REINSTATE TECHNICAL-VOCATIONAL EDUCATION

INTRODUCTION AND REASONS FOR STUDY

The 2005-2006 Education Committee of the Fresno County Grand Jury continued to look at the status of technical-vocational education in the Fresno County schools. We recognize that schools are challenged to have students do well on state mandated tests. High schools must provide college preparatory classes for all students, but it is equally important for them to provide the technical-vocational classes to meet the needs of students who will get jobs after high school or seek specialized training at the college level. The business community needs trained workers in skilled jobs that pay well. The county superintendent stated, "We're not just in competition for jobs with other parts of California and other states, we're in competition globally." The California governor has included \$50 million in his budget to expand technical-vocational education from middle school through community college and to help them coordinate their programs. "Career tech is a first-class ticket to a great career in the California economy," said the governor. With the high level of poverty in the Fresno area, it is imperative that public schools offer technical-vocational classes so students can obtain the job skills they need.

Technical-vocational classes also provide other benefits. Students participate in projects that reinforce the skills taught in math, reading, and English and receive hands-on learning experiences that are meaningful to them. Students need to know about the kinds of jobs available in the area, their qualifications, work environment, and job-pay. A field trip would be valuable to at least one job site such as a medical center, business, or auto shop. Learning how to handle a variety of tools would be worthwhile for all students, and for some it might lead to a future job or hobby.

PROCEDURES AND DOCUMENTATION

I. We met and talked with:

- High school principals and teachers
- Present and former students
- People in business and industry
- The Greater Fresno Area Chamber of Commerce
- Fresno Unified School District officials
- Several Fresno Unified School District trustees
- Office of the Fresno County Superintendent of Schools
- Administrators in the Fresno Regional Occupational Program
- Instructors from Fresno City College and California State University at Fresno

- II. The committee studied “Prepared For Fresno Grand Jury” dated February 2006, provided by the Fresno County Office of Education. Some of the topics that we utilized in our report are listed below:
- Technical-Vocational Training in the Fresno County High Schools 2004-2005
 - Required Education and Training for Employment
 - Fresno County Industry Trends and Outlook
 - High Demand Occupations for Fresno County
 - Occupations with Greatest Job Growth
- III. We read and collected newspaper articles from The Fresno Bee on technical-vocational education.
- IV. We studied material in:
- “The New Valley Times - 2006 Community Report,” February 28, 2006
 - “The 2003-2004 Report Card” from the Fresno Regional Occupational Program
 - Fresno County Office of Education
 - “Fresno Compact - Champion for Schools,” Special Section of The Fresno Bee, March 1, 2006
 - “The Power of Professional Preparation” by Elizabeth Boone, Marlene Hartzman, and Dianne Mero, project analysts for the Breakthrough High Schools Project at the National Association of Secondary School Principals (www.principals.org/breakthrough)

FINDINGS

- F1. The U.S. Bureau of Labor Statistics has projected that less than 22% of the jobs in the next decade will need a college degree. Only 8 of the 50 fastest growing jobs in California will need a four-year college degree.
- F2. The State Employment Development Department reports that in Fresno County the average hourly wages for construction electricians is \$19.50, for carpenters \$20.75, and for plumbers \$18.52.
- F3. The following Fresno County Industry Trends and Outlook, 2001-2008, dated February, 2006, were provided by the Fresno County Office of Education:
- The Employment Development Department projects Fresno County non-farm wage and salary employment to grow from 276,600 in 2001 to 318,700 jobs in 2008, an increase of 42,100 jobs or 15.2%.
 - Services, the largest non-farm industry, will add 15,000 jobs, primarily in health services (up 5,600 jobs), business services (up 3,600 jobs), and other services (up 6,600 jobs).

- Government, the second largest non-farm industry, will add 9,600 jobs reaching 77,000 jobs by 2008 with gains in: local government (up 7,100 jobs, 6,600 of those in local education), state government (up 1,400 jobs), and federal government (up 1,100 jobs).
 - Trade will grow by 8,000 jobs (1,000 in wholesale trade and 7,000 in retail trade) to reach 74,400 jobs. Retail growth will occur primarily in eating and drinking establishments, other retail trade, food stores, and general merchandise.
- F4. The State Department of Finance reported that the central San Joaquin Valley remained one of the fastest growing areas of the state and that Fresno County retains its position as the 10th most populace county. (The Fresno Bee, March 4, 2006)
- F5. The Regional Jobs Initiative is working to create 25,000 to 30,000 new jobs in the Central Valley for an educated populace, but in 2000 more than 85% of those filing unemployment claims in Fresno County did not have a high school or a General Education Diploma (GED). (The New Valley Times, Feb. 28, 2006)
- F6. Governor Schwarzenegger spoke to students at Duncan Polytechnical High School in Fresno about his 2006-07 budget and the Strategic Growth Plan Education Bond, both of which make considerable investments in Career Technical-Vocational Education. (The Fresno Bee, March 25, 2006)
- F7. Designated a “Breakthrough High School” by the National Association of Secondary School Principals, Duncan Polytechnical High School qualified for the honor by having 90% of its students graduating from high school and 90% going on to some type of college. (Boone, Hartzman, Mero, “The Power of Professional Preparation,” p. 46)
- F8. More than 45% of first-time students at Fresno City College fail to complete their courses. (The Fresno Bee, March 21, 2006)
- F9. Material from the Fresno County Office of Education indicates that there is a great difference in the number and variety of technical-vocational classes that are offered at the various high schools in Fresno County.
- F10. A Fresno State University instructor reported that there are only *two* students in the credentialing program for teaching technical-vocational education in secondary schools.
- F11. The Fresno Regional Occupational Program receives some state funds to provide technical-vocational classes at 28 sites on Fresno County high school campuses.

- F12. The Regional Occupational Program offers classes such as agriculture, health, technical and industrial education, home economics, and business. Students in the program receive benefits such as college credit for qualifying courses, industry certification, and internships.
- F13. A press release dated April 27, 2006, stated that the Assembly Education Committee approved AB 2419 that will protect existing facilities used for Career Technical Education classes from being destroyed to make room for conventional classrooms. Mark Wyland, the author of the bill, said, "...Career Technical Education is an important component to reducing our state's large and growing high school dropout population".
- F14. The James Irvine Foundation announced in April, 2006, that it will provide six million dollars to a new statewide center, ConnectEd, which will support high school programs that connect academics with career. (The Fresno Bee, April 17, 2006)
- F15. Education Code §51224. The governing board of any school district maintaining a high school shall prescribe courses of study designed to provide the skills and knowledge required for adult life for pupils attending the schools within its school district. The governing board shall prescribe separate courses of study, including, but not limited to, a course of study to prepare prospective pupils for admission to state colleges and universities and *a course of study for career technical training* (our italics).

CONCLUSIONS

- C1. There are jobs available in Fresno County for high school graduates and those with a GED who have knowledge of tools and have taken some technical-vocational classes.
- C2. High-paying jobs are available and will continue to expand for workers who have obtained sufficient skills.
- C3. The central San Joaquin Valley remains one of the fastest growing areas of the state.
- C4. Only 22% of the jobs in the next decade will need a college degree, but many other jobs will require some short or long-term training following high school graduation.
- C5. There is a general lack of coordination and planning between secondary school counselors, teachers, and site and district administrators and their counterparts in the community colleges.

- C6. Technical-vocational education is of great value in keeping students attending school regularly and graduating from high school.
- C7. There are not enough college students currently enrolled in the teacher-training program for technical-vocational teachers to meet present or future needs.

RECOMMENDATIONS

- R1. Technical-vocational education must be offered in all high schools in Fresno County.
- R2. High schools that already offer some technical-vocational classes must offer a wider variety of classes, and teachers must teach skills for present jobs and for jobs that are just emerging.
- R3. A "Fresno County Forum on Technical-Vocational Education" to be called in 2006-2007 to include representatives from secondary and community college levels of education and the business community, to be headed by a business group that has worked closely with schools.
- R4. If high school principals or school districts are unable to recruit certificated technical-vocational instructors, they must find experienced and qualified people to teach one or more classes on a Designated Subject Credential.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses to recommendation *R3*, from the following people:

Larry Johanson, Fresno Compact
c/o Johanson Transportation Service
5583 E. Olive Avenue
Fresno, CA 93727

Fresno County Superintendent of Schools
1111 Van Ness Avenue
Fresno, CA 93721

Al Smith, CEO
The Greater Fresno Area Chamber of Commerce
2331 Fresno Street
Fresno, CA 93721

From the following Boards of Trustees, recommendations R1, R2, R3 and R4:

Board of Trustees
Caruthers Unified School District
No. 1 Tiller Street
Caruthers, CA 93609

Board of Trustees
Central Unified School District
4605 N. Polk Avenue
Fresno, CA 93722

Board of Trustee
Clovis Unified School District
1450 Herndon
Clovis, CA 93611

Board of Trustees
Coalinga-Huron Unified School District
657 Sunset Street
Coalinga, CA 93210

Board of Trustees
Firebaugh-Las Deltas Unified School District
1976 Morris Kyle Drive
Firebaugh, CA 93622

Board of Trustees
Fowler Unified School District
658 East Adams
Fowler, CA 93625

Board of Trustees
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721

Board of Trustees
Golden Plains Unified School District
22000 Nevada Street
San Joaquin, CA 93660

Board of Trustees
Kerman Unified School District
151 S. First Street
Kerman, CA 93630

Board of Trustees
Kingsburg Joint School District
1900 18th Avenue
Kingsburg, CA 93631

Board of Trustees
Kings Canyon Unified School District
675 W. Manning Avenue
Reedley, CA 93654

Board of Trustees
Laton Unified School District
P.O. Box 248
Laton, CA 93242

Board of Trustees
Mendota Unified School District
115 McCabe Avenue
Mendota, CA 93640

Board of Trustees
Parlier Unified School District
900 Newmark Avenue
Parlier, CA 93648

Board of Trustees
Riverdale Joint Unified School District
3086 W. Mt. Whitney
Riverdale, CA 93656

Board of Trustees
Sanger Unified School District
1905 7th Street
Sanger, CA 93657

Board of Trustees
Selma Unified School District
30036 Thompson Avenue
Selma, CA 93662

Board of Trustees
Sierra Unified School District
29143 Auberry Road
Prather, CA 93651

Board of Trustees
Washington Union High School District
6041 S. Elm Avenue
Fresno, CA 93706

Please be reminded that the responses from elected officials are due within 60 days of the release of this report and 90 days from the others.

**THE
LAW COMMITTEE**

CITIZEN COMPLAINTS

INTRODUCTION

An important function of the Fresno County Grand Jury is to review and respond to citizen complaints. These complaints come from members of the community as well as inmates housed in county jails and state facilities.

The 2005-2006 Grand Jury Law Committee received various complaints. Many were from state prisoners with some issues over which the Grand Jury has no authority to investigate. Federal and state agencies including courts are outside the jurisdiction of the Grand Jury's investigative powers.

The jurisdiction of the Grand Jury is limited by statute and includes the following:

- Investigation of all offenses committed within the county related to abuse or breaking of laws or regulations within the County and State prison systems.
- Inquiry into the condition and management of public detention centers including jails, lockups, court holding, juvenile hall, juvenile camp and prison facilities in the county, according to standards found in Title 15, of the California Code of Regulations.
- Penal Code §919 (a) states the Grand Jury may inquire into the case of a person imprisoned in the jail of the county on a criminal charge and not indicted.
- Penal Code §919 (b), 921 states the Grand Jury shall annually inspect any jail or prison within the county.
- Inquiry into the conduct of law enforcement officers within the County, with access to Internal Affairs files of said officers, according to 79 OAG 185, 103 (1996), section. This includes correctional officers.
- Citizen complaints into any perceived mishandling or mistreatment by law enforcement officers or other public officials. Penal Code §919.

METHODOLOGY

Citizen complaints are submitted on forms which are provided to any citizen upon request. The Grand Jury receives the complaint and determines the appropriate committee to handle the matter. The committee receives the complaint and acknowledges receipt of the dated letter to the complainant.

The committee has discussed letters and complaints with County Counsel and the District Attorney for advice on the legal ramifications related to some issues.

Some state prisoners with complaints of criminal activity such as homicide or sexual assault present special circumstances. The Grand Jury can request the District Attorney to investigate.¹

After the Law Committee completes its examination of a complaint, a disposition recommendation is written to the complainant. If no further action is warranted, the complaint is placed in the closed file.

A complainant may be advised that no further action will be taken due to limitations upon time or because there are other remedies available to the complainant.²

The Grand Jury is not required by law to accept or act on any complaint. The Jury can refuse a complaint for any reason, including more urgent priorities of its time.

INVESTIGATION

I 1 The Law Committees' investigation of complaints was time consuming because of the number of complaints and the varying subjects. (Refer to Complaints Investigated Log.)

I 2 The Offices interviewed were:

The Fresno Police Internal Affairs Division
The Fresno Sheriff's Elder Abuse Unit
The Fresno Sheriff's Internal Affairs Division
The Fresno Sheriff's Office Jail Staff
The Pleasant Valley Prison Information Office
The Fresno County Counsel's Office
The Fresno County District Attorney's Office

I 3 COMPLAINTS INVESTIGATED

05-01 Alleged miscarriage of justice in judicial system
05-02 Alleged mistreatment of state prisoner
05-03 Alleged mishandling of case by police officer re elder abuse
05-04 Inquiry into tracking of sexual predators in county
05-05 Alleged sexual assault, denial food , medical care, state prison
05-06 Alleged mistreatment by correctional officer, state prison
05-07 Alleged mishandling in judicial system

¹ Fresno City District Attorney's Office

² California Grand Jurors' Manual, Appendix G and Chapter VII

- 05-08 Alleged mishandling by U.S. Postal Service*
- 05-09 Alleged murder of inmate at state prison
- 05-10 Alleged assault by sheriff's deputy
- 05-11 Alleged assault by correctional officer in state prison
- 05-12 Alleged mishandling by Internal Revenue Services*
- 05-13 Alleged dirty conditions food area, no medical care
- 05-14 Alleged sexual harassment on job and firing
- 05-15 Alleged miscarriage of justice in judicial system
- 05-16 Alleged mistreatment by a police officer
- 05-17 Alleged mistreatment by sheriff's deputy
- 05-18 Vague complaint, request for complaint form, pending
- 06-19 Alleged misconduct by police officer
- 06-20 Vague complaint, request for complaint form, pending
- 06-21 Alleged mistreatment in Ad-Seg Housing, state prison
- 06-22 Alleged mishandling of prisoner, assault by cell mate
- 06-23 Alleged sexual assault in Ad-Seg by state prison
- 06-24 Alleged mistreatment and sexual assault at state prison
- 06-25 Alleged denial of proper medical care at state prison

*Not in our Jurisdiction

SUMMARY OF COMPLAINT TYPES

JUDICIAL COMPLAINTS*	3
FEDERAL COMPLAINTS*	2
STATE PRISON	12
RE: FRESNO POLICE, REEDLEY PD	3
RE: FRESNO SHERIFF'S OFFICE	2
MISC	3
 TOTAL	 25
 COMPLAINTS, MULTIPLE LETTERS	 9
 TOTAL ALL RESPONSES	 34

*** Not in our Jurisdiction**

FINDINGS

F1 The increased volume of complaints received by this Grand Jury far exceeds the time available for investigation.³

³ Complaint Letters Log, Law Committee 2005-06

- F2 Some criminal complaints from state prisoners have special circumstances and are time consuming to investigate.⁴
- F3 The District Attorney's Office will assist the Grand Jury when special circumstances make it questionable whether a prisoner is receiving a fair hearing.⁵
- F4 The grand jury may, at all times, ask the advice of the court, the judge thereof, the county counsel, the district attorney, or the attorney general.⁶
- F5 Penal Code §926 states the grand jury may, after obtaining court approval, employ professional auditor or appraiser services for specific purposes.
- F6 Penal Code §936.5 provides procedures for presiding judge to employ special counsel or investigators at the request of the Grand Jury.

COMMENTS

It is suggested by the 2005-2006 Grand Jury that the incoming Grand Jury of 2006-2007, form a Complaint Committee to handle all complaints coming to the Fresno County Grand Jury.

RECOMMENDATION

- RI It is recommended that the District Attorney's Office continue to support the Grand Jury with assistance to investigate special circumstances.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses from the following:

The Fresno County District Attorney: R1

Please be reminded that the responses from elected officials are due within 60 days of receipt of this report.

⁴ Complaint Letters Log

⁵ The Fresno City District Attorney's Office

⁶ The California Grand Jurors' Manual, Chapter VIII, P. 9

MULTI-AGENCY GANG ENFORCEMENT CONSORTIUM (MAGEC)

INTRODUCTION

The Fresno County Grand Jury of 2005-2006 believes it is important to again review the status and success of the Multi-Agency Gang Enforcement Consortium (MAGEC), as recommended by the Fresno County Grand Juries of 2001-2002 and 2003-2004. ^{1 2}

BACKGROUND

“On January 3 of 1994, the Fresno County Sheriff’s Office formally established their gang enforcement team titled C.R.A.S.H. (Combined Resources Against Street Hoodlums).” In 1997, the sheriff proposed one unique law enforcement body be established. MAGEC was formed with approval of the California State Governor. ³

“The men and women of MAGEC, believe that a multi-agency and a multi-level approach to combat gang crime is the most comprehensive and effective method in existence.”

PROCEDURES FOLLOWED

The Law Committee investigation involved interviews with the office of MAGEC, review of Final Reports of Fresno County Grand Juries of 2001-2002 and 2003-2004, responses to their reports and Fresno County Sheriff’s Office/MAGEC website.

We offer our support and commendation with this report.

FINDINGS

F1 Gang related arrests are up 40% since 2003, according to MAGEC. ⁴

F2 The average age of gang members in 2005 is between 14-31, compared to 17-24 in 2003. ⁵

¹ Fresno County Grand Jury Report 2001-2002

² Fresno County Grand Jury Report 2003-2004

³ Fresno County Sheriff/MAGEC website

⁴ MAGEC Testimony- Findings:

⁵ Fresno County Grand Jury Report 2003-2004

- F3 Even though the number of gangs has decreased by 23 since 2003, gang membership is never static. New gangs form, gangs divide, separate gangs consolidate, older gangs dissolve and MAGEC still keeps track of them.
- F4 Out of 167 gang related trials, only one person was not prosecuted. This was because of mistaken identity.
- F5 The District Attorney's Office continues to have three full-time prosecutors for gang related cases, one investigator, one Hmong translator and support staff.
- F6 In 2005, MAGEC arrested 29 people who produced and acted in a DVD depicting criminal gang activity in Fresno.
- F7 Temporary and permanent civil injunctions issued by the courts continue to prohibit gang members from associating with other gang members, intimidating people, using guns, other weapons, drugs, alcohol or trespassing and requiring that they obey laws and curfews.
- F8 MAGEC's time is dedicated 100% to gang enforcement, with 897 felony arrests in 2005.
- F9 MAGEC has 38 sworn officers in the team, but according to MAGEC, the unit could immediately put to work at least 25 more officers.
- F10 MAGECs' team is a consortium of personnel from the following agencies: ⁶
- California Department of Justice
 - California Youth Authority
 - Clovis Police Department
 - Federal Bureau of Investigation
 - Fresno City District Attorney's Office
 - Fresno County Sheriff's Office
 - Fresno Police Department
 - Kerman Police Department
 - Reedley Police Department
- F11 None of the above agencies have their own dedicated gang task force, but share in MAGEC.
- F12 At one time the Fresno County Probation Office had one officer in MAGEC, who was later withdrawn.
- F13 MAGEC must have "probable cause" to immediately enter a premises or they are delayed.

⁶ MAGEC Testimony- Findings: F10, F11, F12, F13, F14, F15, F16

- F14 With a probation officer present “probable cause” is immediate because “most gang members are in violation of probation.”
- F15 Both Madera and Tulare Counties have established gang task forces with training by MAGEC.
- F16 MAGEC’s budget in 1997 was \$242,000 per year and has decreased since to \$94,000 per year. The budget is set by the State of California.
- F17 Fresno County was selected with MAGEC to be a node for “Cal Gang”, a statewide database. This system has now developed into a nationwide database for gangs titled “Gang Net”.⁷
- F18 The MAGEC task force has had a 1989 Dodge van over six years that has been unreliable for starting, air conditioning (105° with full armor gear), and is difficult to maintain.⁸

CONCLUSIONS

- C1 The success of MAGEC is reflected in the decrease in the number of gangs, the increase in arrests, the successful prosecution of court cases, national recognition and requests from neighboring counties for training by MAGEC.
- C2 Gangs are recruiting both younger and older members than in the past.
- C3 Civil injunctions issued by the courts continue to be an effective tool for gang control in specific neighborhoods.
- C4 MAGEC needs 25 more officers.
- C5 MAGEC is in need of two dependable vans.

COMMENDATIONS

The Multi-Agency Gang Enforcement Consortium is to be commended for the very effective work it does in keeping control of dangerous gangs, which threaten and coerce citizens in Fresno County. They have been a force in educating other counties and states in a new way of thinking and acting in the war against gangs.

⁷ Fresno County Sheriff/MAGEC website – Finding: F17

⁸ MAGEC Testimony – Finding: F18

The District Attorney's Office is also to be commended for the unwavering support it gives to MAGEC.

RECOMMENDATIONS

Based on what was learned in this review, it is recommended to the Fresno County Board of Supervisors, the Fresno City Council and the Fresno County Probation Office that:

- RI MAGEC continue to receive increased support from County and City governments
- R2 The Fresno County Probation Office recognize the need and reinstate a probation officer to the MAGEC team.
- R3 Two newer dependable vans be acquired or funded for the work necessary for MAGEC.

REQUESTS FOR RESPONSES

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

The Board of Supervisors:	R1 and R3
The Fresno City Council:	R1 and R3
The Fresno County Probation Office:	R2

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

IN-HOME SUPPORT SERVICES FRAUD DIVISION

INTRODUCTION

In 2005-2006, the Fresno County Grand Jury reviewed the In-Home Support Services (IHSS) Fraud Unit, for Fresno County. The Fraud Unit is also called the Special Investigation Unit (SIU), located in the Fresno County District Attorney's Office.

In June of 2003, the Fresno County Board of Supervisors (BOS) approved creation of the SIU for IHSS, to be staffed by the District Attorney's Office.

This is the first unit in the state dedicated to discovering fraud in the IHSS system. Before this SIU was established the incident of fraud detection was rare. The IHSS was established 33 years ago. Only in the last three years have investigations been done to detect fraud.¹

The Fresno SIU has estimated the loss of money in IHSS since October 2003, is \$953,420.40. Restitution ordered by the court is \$651,926.40. The SIU has received 704 referrals for investigation, but is backlogged 412 cases.²

The Grand Jury felt that issues raised in the previous reports on IHSS of Grand Juries of 2003-2004 and 2004-2005, were important to the community.³ We will clarify some areas of concern regarding the Public Authority registry; the use of IHSS forms that aid in prosecution and where recovered monies are returned.

BACKGROUND

B1 What is the In-Home Support Service (IHSS) program?⁴

- a. The IHSS is a state mandated program established in 1973, administered by all counties under the direction of the California Department of Social Services.
- b. All 58 counties in California provide IHSS programs where fraud is alleged.
- c. The IHSS program is responsible for matching Individual Providers (IP) with appropriate recipients and their needs.

¹ District Attorney's Fraud Division – SIU Testimony and Highlights

² District Attorney's Fraud Division – Monthly Summary Log – FY 2005-2006

³ Fresno County Grand Jury Reports for 2003-2004 and 2004-2005.

⁴ Notes of Community Health Care Roundtable – September 18, 2003

<metromin@fresnometmin.org>

- d. It provides for in-home care to eligible children, aged, blind and disabled individuals who would be unable to remain safely in their homes.
- e. Funding comes from Federal Medicaid dollars, state funds approved in the yearly budget act and a required county match.
- f. The legislature originally allowed counties to hire employees as IPs, but the expense was too high.
- g. They then allowed the county to contract with an agency established to provide this care. Counties slowly withdrew because of the high cost.
- h. The third and present mode for delivery of care is the Independent Individual Provider (IIP).
- i. The IIP is hired directly by the recipient with assistance from IHSS, but the recipient is ALWAYS the employer.
- j. Not all providers in the IHSS program belong to the Public Authority (PA) registry.
- k. IIPs can now be related to the recipient and have another job. Legislation originally disallowed a relative or the IIP to have a second job.
- l. Social workers who work for the IHSS program are the gatekeepers who screen providers and recipients on intake applications and review once a year.
- m. Social workers are required to attend mandatory workshops to update how to identify, prevent and aid prosecution of IHSS fraud.
- n. Providers and recipients are advised of the consequences of committing fraud on the IHSS intake form called "Rights and Responsibilities".
- o. According to SIU many social workers are not presenting these forms at intake interviews. They are important to aid in court cases.
- p. The IHSS program is vital to control higher costs of recipients being placed in convalescent or boarding care.

B2 What is the IHSS Public Authority and Registry? * ⁵

- a. The IHSS Public Authority (PA) was mandated by the state in 1993.

⁵ Notes of Community Health Care Roundtable – September 18, 2003 <metromin@fresnometmin.gov>

- b. The PA is a separate agency from Fresno County.
- c. The Board of Supervisors (BOS) created the PA and is the PA Governing Board
- d. The creation was to assist the BOS in sharing responsibilities for IHSS.
- e. The PA is the registry for some providers and acts as employer of record.
- f. The recipient with the guidance of the PA is ALWAYS the employer.
* <fresnohumanservices.org/AdultServices/Public Authority>
- g. The purpose of the PA is to negotiate wages, benefits and conditions with the local union.
- h. Providers belonging to the registry are trained in CPR and first aid.
- i. It is voluntary for providers to belong to the registry since it is not state mandated.
- j. Providers not with the registry do not have to take training.
- k. Of all providers in Fresno County (10,124) only 454 (4%) are in the registry.⁶
- l. Providers in the registry have background checks, but funding covers only fingerprinting.
- m. These background checks are not criminal background checks.
- n. Existing law provides that the California Department of Justice (DOJ) shall secure any criminal record of a person to determine whether the person has been convicted of any felony within the last 10 years, if an employer of the person, including an IHSS recipient, requests the determination and submits fingerprints of the person to the DOJ.⁷
- o. A required central registry for all providers is not feasible because "...no one really wanted to be designated as the employer of the provider because of the risks of liability and because there was worry, of course, that there would be escalating costs involved in this program that could run out of control".^{8 9}

⁶ District Attorney's IHSS Fraud Unit – SIU Testimony and Highlights

⁷ Assembly Human Services Committee, 2003 Legislative Summary re: AB 2534

⁸ Fresno County IHSS Office - Testimony

⁹ Notes of Community Health Care Roundtable – September 18, 2003 <metromin@fresnometmin.org>

METHODOLOGY

The Law Committee conducted interviews and referred to the following documents to investigate the SIU and IHSS systems:

- Assembly Human Services Committee – 2003 Legislative Summary
- Fresno County District Attorney’s Office IHSS Fraud Division – (Attachment)
- Fresno County District Attorney’s Office – SIU Monthly Summary Log (Attachment)
- Fresno County District Attorney’s Office – SIU Testimony
- Fresno County In-Home Support Services Office
- Notes of Community Health Care Round Table- Sept. 18, 2003
<metromin@fresnometmin.org>

FINDINGS

- F1 The Fresno County District Attorney’s Special Investigation Unit (SIU) is the first fraud unit for IHSS in California.¹⁰
- F2 The SIU, also called IHSS Fraud Division, is staffed with one Deputy District Attorney, two District Attorney Investigators and one Program Technician.
- F3 The SIU is the only IHSS fraud unit to send defendants to prison.
- F4 The SIU is the only fraud unit in California to use a surveillance van.
- F5 The SIU is the only unit to use an unmanned van with a motion-activated camera.
- F6 The SIU does not have a nighttime video recorder to allow surveillance after dark.
- F7 The SIU gives requested workshops to other counties throughout the state.
- F8 The SIU gives yearly mandated workshops to social workers in IHSS.
- F9 Social workers in the first Fresno workshop gave 85 referrals for alleged fraud.¹¹
- F10 Since the SIU was fully staffed in October 2003, it has produced the following results:¹²
- 704 Referrals for Investigation

¹⁰ District Attorney’s Fraud Division – SIU Testimony – Findings: F1 thru F8, F11, F12

¹¹ Fresno County Grand Jury Report 2003-2004 – Findings: F9,

¹² District Attorney’s Fraud Division – SIU Testimony and Highlights – Findings: F10, F12, F13, F14, F15

- 412 Backlogged Cases to be Investigated
- 292 Completed Investigations
- 201 Cases Referred for Prosecution
- 133 Cases Prosecuted
- 68 Cases Remaining for Prosecution
- \$953,420 Estimated Loss Detected Since 2003
- \$651,926 Restitution Ordered

F11 The SIU this year estimates that fraud will increase in Fresno's IHSS program.

F12 The total annual SIU budget funded by IHSS is \$560,000.

F13 The SIU annual budget is 0.5% of the annual IHSS benefit payments of \$112 Million.

F14 The two District Attorney Investigators complete ten cases per month.

F15 The cost to prosecute each fraud case is at least \$5,000.

F16 The affiliation of the 10,124 providers in Fresno County is 6,580 are relatives and 3,090 are not relatives. Only 454 are hired from the IHSS PA registry.

F17 The major types and percentages of providers prosecuted for fraud are:

- 48% Provider Claiming Care, Not Providing Service
- 24% Recipient is Deceased
- 18% Incarcerated, Claiming Provider Position
- 10% Recipient is Hospitalized, Provider Claiming Care

F18 The major types and percentages of recipients prosecuted for fraud are:

- 40% Overstated Needs
- 30% Unreported Changes in Household
- 25% Demanding Share of Providers' Pay
- 5% Misreported Income

F19 Providers convicted of fraud are removed from the IHSS roll.

F20 Recipients convicted of fraud are allowed to reapply and remain recipients.

F21 Monies retrieved by the courts do not go back to the IHSS budget, but are reimbursed to the County, State and Federal Government.

- F22 A helpful tool in court cases is an IHSS “admonition” form regarding fraud called “Rights and Responsibilities”, which is being used for intake applications for providers and recipients.¹³
- F23 According to SIU these forms are seldom being used by social workers.
- F24 The State of California now has a database to track providers convicted of fraud.
- F25 The SIU does not track whether convicted providers are from the registry.
- F26 Over \$9.4 Million in benefit payments are paid monthly in Fresno County¹⁴ \$11 Million paid annually.
- F28 Existing law provides that criminal background checks can be requested of the California Department of Justice (DOJ) by IHSS recipients.¹⁵

CONCLUSIONS

- C1 Establishment of the an IHSS Fraud Unit in 2003 was necessary to recover lost funds.
- C2 The result of SIU investigations has more than offset the cost of running the unit.
- C3 The SIU is understaffed and they are unable to handle the volume of cases referred to them.
- C4 Based on ten investigations completed a month by SIU Investigators, it would take 3.5 years to complete the 412 backlogged cases.
- C5 Money recovered from IHSS fraud does not benefit the SIU or IHSS program, but must be repaid to County, State and Federal Government.¹⁶
- C6 The SIU could use another van for surveillance and a nighttime video camera.
- C7 Social workers, as the gatekeepers to protect recipients and providers, are in the best position to report IHSS fraud.
- C8 Recipients convicted of fraud in the IHSS system are felons, should be denied reapplication to the program.

¹³ District Attorney’s Fraud Unit – SIU Testimony – Findings: F22, F23, F24, F25, F26

¹⁴ District Attorney’s Fraud Unit – SIU Testimony and Highlights – Findings: F16, F17, F18, F19, F20, F21, F27, F28

¹⁵ Assembly Human Services Committee, 2003 Legislative Summary – re: AB 2534 (Bates)

¹⁶ District Attorney’s Fraud Unit – SIU Testimony – See F21

- C9 The “Rights and Responsibilities” form for acceptance into the IHSS program for providers and recipients must be signed every time.
- C10 The large number of providers working without criminal background checks is cause for concern of undisclosed abusers caring for dependent recipients.
- C11 Criminal background checks can be requested by recipients with assistance of IHSS social workers.
- C12 It is not feasible to have a central registry for all providers in the IHSS system.

COMMENDATIONS

The District Attorney’s Fraud Division for IHSS is to be commended for its dedication and hard work in a difficult and demanding task.

The Fresno IHSS social workers and providers who are hardworking, conscientious caretakers are to be commended for their commitment to their clients.

RECOMMENDATIONS

- R1 The Fresno County District Attorney’s Office 2007-2008 budget must include additional investigators for the IHSS Fraud Unit to relieve the backlog of fraud cases
- R2 The Fresno County District Attorney’s Office provide a nighttime video recorder for the IHSS Fraud Unit
- R3 The Fresno County Board of Supervisors approve the District Attorney’s request to add investigators to the IHSS Fraud Unit
- R4 The In-Home Support Services Office and IHSS Public Authority make up a packet for new recipients and providers that includes the “Rights and Responsibilities” admonition form for committing fraud
- R5 The In-Home Support Services Office and IHSS Public Authority monitor that “Rights and Responsibilities” forms are signed by all providers and recipients

REQUESTS FOR RESPONSES

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

The District Attorney’s Office

R1 and R2

The Board of Supervisors	R3
The In-Home Support Services Office	R4 and R5
The IHSS Public Authority	R4 and R5

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

ATTACHMENTS

Fresno County District Attorney's Office Fraud Unit – Monthly Summary Log – FY 2005-2006

Fresno County Office of the District Attorney – IHSS Fraud Division - Highlights



FRESNO COUNTY
OFFICE OF THE DISTRICT ATTORNEY
 Elizabeth A. Egan
 District Attorney
 In-Home Supportive Services Fraud Division

MONTHLY SUMMARY LOG - FY 2005-2006

	Referrals for Investigation	Completed Investigation Referred for Filing	Criminal Charges Filed	Criminal Charges Not Filed	Estimated Loss	Convictions	Court Ordered Restitution	Criminal Fines
Jul-05	39	4	4	0	\$ 22,126.34	7	\$ 28,751.50	\$ 1,320.00
Aug-05	67	14	8	0	\$ 32,876.37	3	\$ 13,241.72	\$ 900.00
Sep-05	35	3	12	0	\$ 5,033.71	6	\$ 8,047.83	\$ 400.00
Oct-05	16	7	5	0	\$ 25,795.76	5	\$ 2,972.38	\$ 100.00
Nov-05	12	2	3	0	\$ 10,511.41	6	\$ 7,254.37	\$ 400.00
Dec-05	41	7	2	0	\$ 29,239.08	6	\$ 30,987.71	\$ 600.00
Jan-06	4	6	0	0	\$ 28,748.67	5	\$ 6,639.75	\$ 800.00
Feb-06	15	4	3	0	\$ 5,892.94	4	\$ 2,707.22	\$ 300.00
Mar-06	4	7	4	0	\$ 26,714.79	4	\$ 12,896.12	\$ 400.00
Apr-06	13	1	7	0	\$ 470.00	1	\$ 3,246.83	\$ 300.00
May-06					\$ -	0	\$ -	\$ -
Jun-06					\$ -	0	\$ -	
Total	246	55	48	0	\$ 187,409.07	47	\$ 116,745.43	\$ 5,520.00

SUMMARY

	FY 2003-2004	FY 2004-2005	FY 2005-2006	TOTAL
Investigations:				
Incoming referrals for investigation	161	297	246	704
Investigation completed	73	135	84	292
Remaining cases for investigations	88	162	162	412
Prosecution:				
Cases referred for prosecution	56	90	55	201
Completed cases	27	53	53	133
Remaining cases for prosecution	29	37	2	68
Collections:				
Estimated Loss	\$282,035.59	\$483,975.82	\$187,409.07	\$953,420.48
Restitution Ordered	\$167,432.60	\$367,748.37	\$116,745.43	\$651,926.40

Prosecution Outcome				SUMMARY			
Jul-05		FEL/MISD	Case Name	Restitution Ordered			
DACO	MISD	DUFUR, STEPHEN	\$	405.78			
DACO	MISD	MCAULIFFE, SHIRLEY	\$	465.50			
DACO		SOLORZANO, BEATRICE	\$	2,595.68			
DACO	FEL	MORENO, MARGARET	\$	13,129.38			
DACO		MARSHALL, BETTY	\$	7,212.50			
DACO		KEONOUPHET, SYTHANONWAY	\$	2,950.01			
DADM	DADM	CABRERA, ROSITA	\$	1,992.65	PIF		
DADC							
DACP							
TOTAL		7	\$	28,751.50			
DADI	DADI	LOR, WA TU	\$	-			
DADI	DADI	THAO, YIA	\$	-			
DAQU							
DACL							
DAEX							
DAOT							
TOTAL		2	\$	-			
Aug-05		Case Name	Restitution Ordered				
DACO	FEL	BROWN, SUSAN	\$	1,953.60			
DACO	FEL	BROWN, SUSAN	\$	14,536.62			
DACO	MISD	MYERS, MICHELLE	\$	912.39			
DACO	MISD	THOMAS, ERYCKA	\$	1,191.38			
DACO	FEL	KEE, LINDA	\$	7,405.92			
DACO	MISD	ARMENDARIZ, JOSEPH	\$	(2,950.01)			
DACO			\$	(2,595.68)			
DACO			\$	(7,212.50)			
DADM							
DADC							
DACP							
TOTAL		3	\$	13,241.72			
DADI	DADI	SANTOR, MORGAN	\$	-			
DAQU							
DACL							
DAEX							
DAOT							
TOTAL		1	\$	-			
Sep-05		Case Name	Restitution Ordered				
DACO	MISD	ALLEN, EDWARD	\$	514.81			
DACO	MISD	FLANIGAN, THELMA	\$	1,217.25			
DACO	MISD	ANDREWS, JAMES	\$	1,192.50			
DACO	FEL	TORRES, SUPRENA	\$	1,237.93			
DACO	FEL	HALL, JACQUELINE	\$	2,419.49			
DADM	DADM	DAVIDIAN, REBECCA	\$	1,465.85			
DADC							
DACP							
TOTAL		6	\$	8,047.83			
DADI							
DAQU							
DACL							
DAEX							
DAOT							
TOTAL		0	\$	-			
Oct-05		Case Name	Restitution Ordered				
DACO	MISD	WALKER, DAVID GEORGE	\$	-			
DACO	FEL	HUNT, ERNEST	\$	168.95			
DACO	FEL	HUNT, ERNEST	\$	594.00			
DACO	MISD	CROOKS, MINDI	\$	1,071.83			
DACO	MISD	CASEY, DARLA	\$	360.00			
DADM			\$	777.60			
DADC							
DACP							

	CONVICTIONS	RESTITUTION ORDERED	OTHER DA CODES
Jul-05	7	\$ 28,751.50	2
Aug-05	3	\$ 13,241.72	1
Sep-05	6	\$ 8,047.83	0
Oct-05	5	\$ 2,972.38	0
Nov-05	6	\$ 7,254.37	0
Dec-05	6	\$ 30,987.71	1
Jan-06	5	\$ 6,639.75	1
Feb-06	4	\$ 2,707.22	0
Mar-06	4	\$ 12,896.12	0
Apr-06	2	\$ 3,246.83	0
May-06	0	\$ -	0
Jun-06	0	\$ -	0
TOTAL	48	\$ 116,745.43	5

	CONVICTIONS	DA CL	DA DI	DA OT
DACO				
FEL	18			
MISD	23			
DADM	7			
DACP	0			
TOTAL	48			5
PIF	11			

	FY 2003 - 2004	FY 2004 - 2005	FY 2005 - 2006	TOTAL
FEL	11	22	18	51
MISD	11	23	23	57
DADM	2	4	7	13
DACP	1	0	0	1
DA CL	1	1	0	2
DA DI	1	2	5	8
DA OT	0	1	0	1
TOTAL	27	53	53	133

TOTAL		5	\$ 2,972.38		
DADI					
DAQU					
DACL					
DAEX					
DAOT					
TOTAL		0	\$ -		
Nov-05		Case Name	Restitution Ordered		
DACO	MISD	HARJO, JENNIFER	\$ 1,136.00	PIF	
DACO	MISD	HARJO, JENNIFER	\$ 575.25	PIF	
DACO	MISD	NEWMAN, DEANNA	\$ 572.26	PIF	
DACO	MISD	PRUITT, HOLLY	\$ 3,800.81	PIF	
DACO	MISD	MCCULLAR, EARVWIN	\$ -		
DACO	MISD	GARZA, GLORIA	\$ 1,170.05	PIF	
DADM					
DADC					
DACP					
TOTAL		6	\$ 7,254.37		
DADI					
DAQU					
DACL					
DAEX					
DAOT					
TOTAL		0	\$ -		
Dec-05		Case Name	Restitution Ordered		
DACO	FEL	ANDRADE, ELICENA	\$ 10,724.40		
DACO	FEL	BASSCREAR, VALERIE	\$ 5,033.71		
DACO	FEL	BANKS, KERMAN	\$ -		
DACO	FEL	ARMSTRONG, RONALD	\$ 7,214.95		
DACO	FEL	WILLIAMS, ALTON	\$ 7,580.99		
DACO					
DACO					
DADM	DADM	TORRES, PATRICIA	\$ 433.66	PIF	
DADC					
DACP					
TOTAL		6	\$ 30,987.71		
DADI	DADI	MILLS, AVA	\$ -		
DAQU					
DACL					
DAEX					
DAOT					
TOTAL		1	\$ -		
Jan-06		Case Name	Restitution Ordered		
DACO	MISD	OROZCO, LEONARD	\$ -		
DACO	MISD	HOLMES, OPAL	\$ 760.00		
DACO	MISD	MILLS, SONIA	\$ 1,144.98		
DACO	FEL	CHANTHARANGSY, MALAY	\$ 3,304.56		
DADM	DADM	LOPEZ, ALEJANDRA	\$ 1,430.21	PIF	
DADC					
DACP					
TOTAL		5	\$ 6,639.75		
DADI	DADI	DE LA CRUZ, GUSTAVO	\$ -		
DAQU					
DACL					
DAEX					
DAOT					
TOTAL		1	\$ -		
Feb-06		Case Name	Restitution Ordered		
DACO	FEL	GARLAND, QUENTIOUS	\$ -		
DACO	MISD	MATA, SONIA	\$ 850.50		
DACO					
DADM	DADM	PARLEY, LORENE	\$ 304.50	PIF	
DADM	DADM	MCAVOY, KENNETH	\$ 1,552.22	PIF	
DADC					
DACP					
TOTAL		4	\$ 2,707.22		
DADI					
DAQU					
DACL					
DAEX					
DAOT					
TOTAL		0	\$ -		
Mar-06		Case Name	Restitution Ordered		
DACO	FEL	DANSBY, ROCHERYL	\$ 2,381.41		
DACO	FEL	BETANCOURT, ELVIRA	\$ 6,019.21		
DACO	FEL	WRIGHT, ROYSLA	\$ 2,535.95		
DACO	MISD	JACKSON, PATRICIA	\$ 1,959.55		
DACO					
DADC					

DACP									
TOTAL		4	\$	12,896.12					
DADI									
DAQU									
DACL									
DAEX									
DAOT									
TOTAL		0	\$	-					
Apr-06		Case Name	Restitution Ordered						
DACO	MISD	JACKSON, BETTY	\$	1,173.83					
DACO									
DACO									
DADM	DADM	LOWE, LATONYA	\$	2,073.00	PIF				
DADC									
DACP									
TOTAL		2	\$	3,246.83					
DADI									
DAQU									
DACL									
DAEX									
DAOT									
TOTAL		0	\$	-					
May-06		Case Name	Restitution Ordered						
DACO									
DACO									Glenn Brown's inv cost not reported in 4/2005
DACO									
DACO									
DACO									
DADM									
DADC									
DACP									
TOTAL		0	\$	-					
DADI									
DAQU									
DACL									
DAEX									
DAOT									
TOTAL		0	\$	-					
Jun-06		Case Name	Restitution Ordered						
DACO									
DACO									
DACO									
DACO									
DACO									
DACO									
DACO									
DACO									
DACO									
DADM									
DADM									
DADM									
DADM									
DADM									
DADC									
DACP									
TOTAL		0	\$	-					
DADI									
DADI									
DAQU									
DACL									
DACL									
DACL									
DACL									
DACL									
DACL									
DAEX									
DAOT									
TOTAL		0	\$	-					

FRESNO COUNTY
OFFICE OF THE DISTRICT ATTORNEY



IHSS Fraud Division
Investigation - Prosecution - Protection

Statewide Highlights

IHSS Services are provided in all 58 counties.

Over 375,000 people receive services monthly in the State of California.

Over 350,000 providers

Over \$3 Billion in services paid annually.

Fresno County Highlights

11,630 people receive services monthly in Fresno County

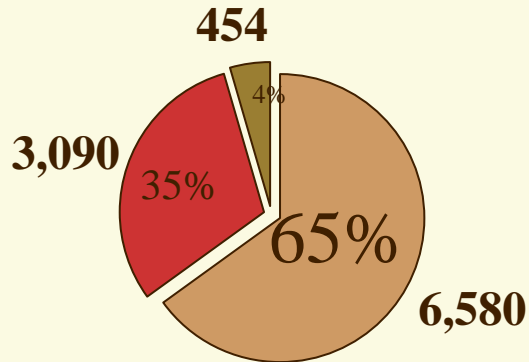
10,124 Providers

Over \$9.4 million in services paid monthly

Over \$112 million in services paid annually

Fresno County Highlights: IHSS Providers

10,124 Total Providers



- Relatives 6,580**
- Unrelated: Hired w/out IHSS Registry 3,090**
- Hired from IHSS Registry 454**

IHSS Fraud Division

Formed July 2003

Fully Staffed October 2003:

Deputy District Attorney

2 District Attorney Investigators

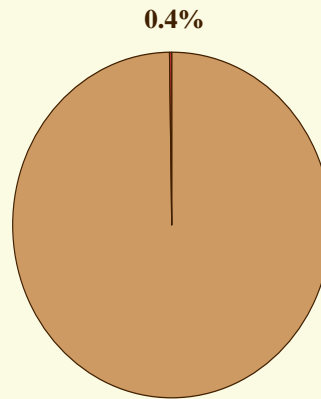
Program Technician

Total Annual Budget:

\$560,000

Fresno County Highlights: IHSS Budget

*The IHSS Fraud Division Budget
0.4% of Annual IHSS Benefit Payments*



- Annual IHSS Benefit Payments \$112,000,000
- IHSS Fraud Division Budget \$560,000

IHSS Fraud Division: FY 03-04 Statistics

Investigation:

161 Referrals for investigation of suspected fraud

Prosecution:

*56 Cases referred for criminal prosecution
with an estimated loss of \$282,035*

*25 Criminal Convictions
[13 felonies and 12 misdemeanors]
with court ordered restitution of \$167,432*

IHSS Fraud Division: FY 04-05 Statistics

Investigation:

297 Referrals for investigation of suspected fraud

Prosecution:

*90 Cases referred for criminal prosecution
with an estimated loss of \$484,000*

*53 Criminal Convictions
[28 felonies and 25 misdemeanors]
with court ordered restitution of \$368,000*

IHSS Fraud Division: FY 05-06 YTD Statistics

Investigation:

214 Referrals for investigation of suspected fraud

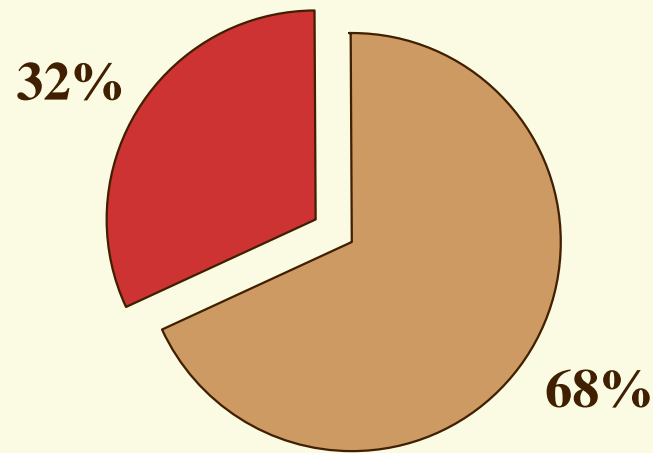
Prosecution:

*43 Cases referred for criminal prosecution
with an estimated loss of \$154,331*

*38 Criminal Convictions
[16 felonies and 22 misdemeanors]
with court ordered restitution of \$97,895*

IHSS Fraud Division: Statistics

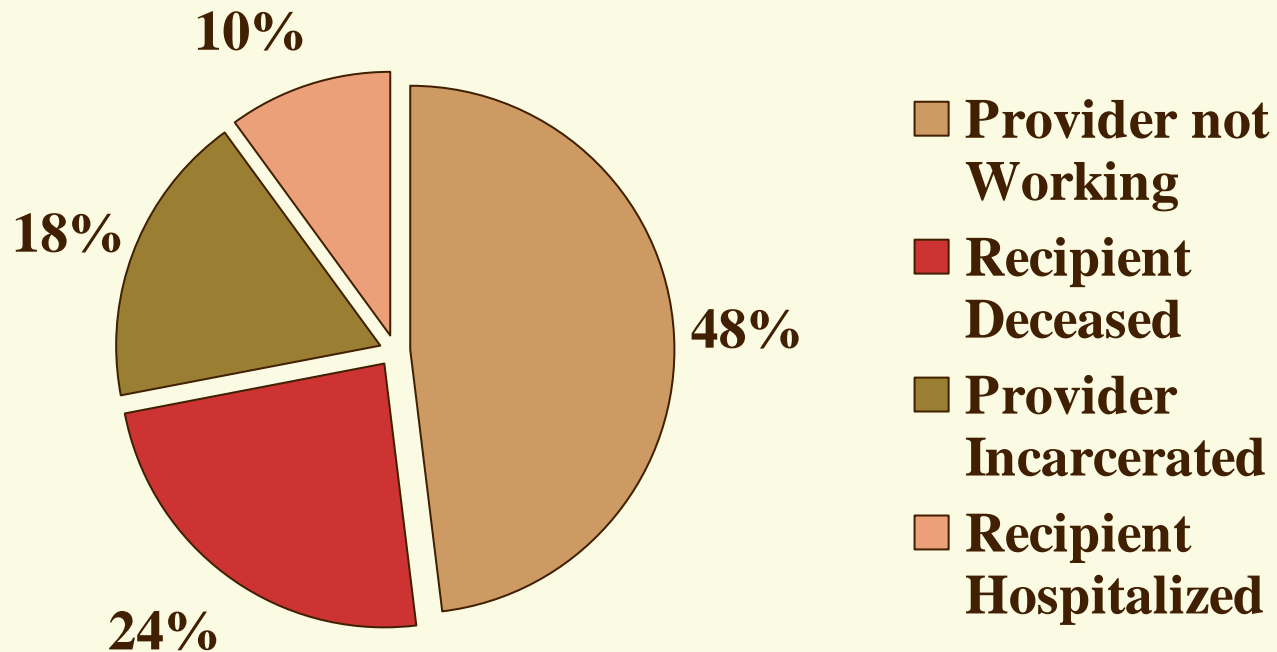
Provider vs. Recipient Fraud



■ Provider Fraud ■ Recipient Fraud

IHSS Fraud Division: Statistics

Major Types of Provider Fraud



IHSS Fraud Division: Statistics

Major Types of Recipient Fraud

