

FRESNO COUNTY GRAND JURY

FINAL REPORT



2003 - 2004

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FRESNO COUNTY GRAND JURY

2003–2004



PRESIDING JUDGE OF THE FRESNO COUNTY SUPERIOR COURTS

**Hon. Brad R. Hill
Presiding Judge**

FRESNO COUNTY GRAND JURY

2003-2004

2003–2004 FRESNO COUNTY GRAND JURY



Front Row: Paula Guzman, Henry Chin, Robert Gutierrez, Yvonne Setencich, Mary Ann Dews, Morton Rosenstein, M.D.

Middle Row: Bob Weins, James Cotton, Jill Robinson, Bill Rogers, Ed O'Neill

Back Row: Sam Yelinek, Jim Perkins, Paul Wylie, Tony Peranick

Not Shown: Fred Goldring, Paul O'Rourke, Stan Ziegler, Susan Biglione

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FRESNO COUNTY GRAND JURY

1100 VAN NESS AVENUE ROOM 102
FRESNO, CALIFORNIA 93721

June 30, 2004

The Honorable Brad R. Hill
Presiding Judge of the Fresno County Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

Dear Judge Hill:

On behalf of the 2003/2004 Fresno County Grand Jury, it is my pleasure to submit our final report. This report is the culmination of the hard work, commitment and dedication of the 19 diverse citizens who in the space of one year formed a cohesive body that is responsible for production of this report.

During this year the members of the Grand Jury had the challenge of learning to function as a jury, to develop skills in interviewing witnesses, to become proficient in evaluating testimony, and to write in a report style needed to develop this Final Report, the voice of the Grand Jury. It proved to be a significant, valuable learning experience for all the jurors.

The choice of the areas covered were chosen by the committees from citizen complaints, subjects brought up by the news media, suggestions from the prior Grand Jury and topics of interest to the Jurors. These sources provided sufficient material to keep all of the committees busy and involved.

During this year, there was considerable, additional stress placed on all levels of government due to the fiscal and budgetary problems faced by the county and the cities. The uncertainty of the State's fiscal problems required repeated revisions in the budgetary process of the local governments.

The Foreperson and Foreperson Pro Tem had the opportunity to attend the training session put on by the California Grand Jury Association. This two-day session provided valuable background material and other resources covering all of the activities of the Grand Jury. Attending this meeting should definitely be available to the next Jury.

The Grand Jury was able to obtain several items that proved to be invaluable to its function. A newer computer and laptop were very welcome additions. A fax machine also provided another connection to sources of information, together with the e-mail access obtained last year. A sorter for the copy machine removed the necessity for Jurors to manually sort papers. With no outside secretarial help, these items are very important in allowing the Jury to complete its work.

As compared to prior Juries, this Grand Jury changed the emphasis and direction of several committees. The Cities Committee concerned itself only with the cities of Fresno and Clovis. The remaining cities in the county were placed under the County Committee. Air quality and pollution problems were assigned to the Transportation Committee. The Department of Family and Children's Services was separated from the Human Services System committee and placed with education as the Education and Youth Committee. This provided the HSS Committee with the opportunity to study the other areas under the Health and Human Services Department umbrella.

This Jury, agreeing with several prior Grand Juries, felt very strongly about the lack of publicity and the resultant lack of knowledge of the Grand Jury's presence and its activities in the community. Several other counties are able to publish their reports in the press, therefore allowing a larger segment of the population to become aware of the function of the Jury and the results of its investigations. Distribution of the Final Report is very limited, and although it is available on the County Web Site, only people with a specific need would access it in this manner.

Another item of concern to this Grand Jury is the budget amount provided. The fiscal problems of the County are well known and appreciated by the Jurors. The budget has been essentially unchanged for many years and there has not been any consultation with the Jury. A survey of Grand Juries done by the state organization shows Fresno County to be almost at the bottom of the amount spent on its Grand Jury, far less than smaller, surrounding counties.

The Grand Jury wishes to thank you Judge Hill, County Council Phillip Cronin and Assistant District Attorney, Bob Ellis, for the guidance and prompt attention to any matters that were brought to them. Sherry Spears, Juror Services Manager provided us with efficient support as well.

I wish to thank all of the members of the 2003/2004 Grand Jury for their assistance and cooperation in making this such a successful year.

Respectfully,

Morton Rosenstein, M.D.
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 is released to the Presiding Judge. After his approval the Final Report is released to the public.

2003/2004 FRESNO COUNTY GRAND JURY ROSTER

Name	City
Morton Rosenstein, M.D., Foreman*	Fresno
Susan Biglione*	Clovis
Henry Chin*	Fresno
James Cotton	Fresno
Mary Ann Dews	Fresno
Fred Goldring*	Fresno
Robert Gutierrez	Selma
Paula Guzman	Fresno
Edwin O'Neill	Fresno
Paul O'Rourke	Fresno
Tony Peranick	Fresno
James Perkins*	Fresno
Jill Robinson	Fresno
Bill Rogers, Jr.	Fresno
Yvonne Setencich	Sanger
Bob Wiens	Fresno
Paul Wiley	Clovis
Sam Yelinek	Fresno
Dr. Stan Ziegler	Fresno

*2002/2003 Grand Jury Holdovers



THE COUNTY OF FRESNO

2003-2004 FRESNO COUNTY GRAND JURY OFFICERS

Foreperson	Morton Rosenstein, M.D.
Foreperson Pro Tempore	Bob Wiens
Recording Secretary	Dr. Stan Ziegler
Appointment Secretary	Mary Ann Dews
Sergeant-at-arms	Robert Gutierrez
Librarian	Susan Biglione

EDITING COMMITTEE

Chairperson	Morton Rosenstein, M.D.
Member	Henry Chin
Member	Mary Ann Dews
Member	Fred Goldring
Member	Paula Guzman

2003/2004 Committee Roster

CITIES OF FRESNO & CLOVIS

Fred Goldring Chair
James Cotton
Ed O'Neill
Paul O'Rourke
Jill Robinson
Dr. Stan Ziegler

COUNTY OF FRESNO

Ed O'Neill Chair
Henry Chin
Robert Gutierrez
Paul O'Rourke
Yvonne Setencich
Sam Yelenick

EDUCATION AND YOUTH

Jill Robinson Chair
James Cotton
Mary Ann Dews
Fred Goldring
Tony Peranick
Bill Rogers, Jr.

HUMAN SERVICES SYSTEM

Bill Rogers, Jr. Chair
Mary Ann Dews
Paula Guzman
Tony Peranick
Yvonne Setencich
Sam Yelenick

LAW ENFORCEMENT

Jim Perkins Chair
Susan Biglione
Paula Guzman
Paul Wiley
Bob Wiens
Dr. Stan Ziegler

TRANSPORTATION & AIR QUALITY

Henry Chin Chair
Susan Biglione
Robert Gutierrez
Jim Perkins
Paul Wiley
Bob Wiens

CITIES OF FRESNO AND CLOVIS COMMITTEE

Fred Goldring, Chair

James Cotton

Ed O'Neill

Paul O'Rourke

Jill Robinson

Dr. Stan Ziegler

CITIES COMMITTEE

INTRODUCTION

Upon review of the Fresno County Grand Jury report for 2002/2003, it was noted the City of Fresno has acted expeditiously in response to a number of recommendations made by the 2002/2003 Fresno County Grand Jury.

City Officials, along with the office of the Finance Director, have reduced debt, established reserves, clarified some complex accounting issues and generally improved the city's financial condition. The Jury notes that the City's long-standing Urban Growth Management (UGM) differences have almost entirely been resolved. In addition, the City Clerk has updated the boards and commissions procedures.

The Cities Committee is charged with the consideration of complaints and concerns from citizens, officials, and city staff, as well as issues raised by the media and the Fresno County Grand Jury members themselves. In some cases, the Grand Jury has been asked to consider a subject and after due consideration it decides not to issue a report. In two cases this year, the Cities Committee of the 2003/2004 Fresno County Grand Jury decided not to issue a report. In the first instance, the committee considered issuing a report on the problems and continuing deterioration of the Chaffee Zoo. Two previous Grand Juries in the past five years had reported on the problems of the zoo. The 2003/2004 Jury decided that another report on the same conditions would not provide any new material and redundancy served no purpose.

In the second instance, the Jury was given information that indicated possible felonious acts. After consulting with the Presiding Judge and the District Attorney's Office, this matter was turned over to the Federal Bureau of Investigation. In the latter case, when a matter is turned over to the legal system, the Grand Jury withdraws from any involvement in the matter.

The Cities Committee has chosen to report on the following matters that we call to your attention:

1. A report on the Council-Mayor government in the City of Fresno. Concerns regarding the relationship between the Mayor, City Council and staff of the City are reviewed. Recommendations are made to improve the synergy between these groups of City officials and staff.
2. A report on the City's Worker's Compensation program offers some recommendations as to possible improvements.
3. An overview of the City of Fresno's debt condition and a summary of its recent bond activity and various bond agencies ratings.
4. A report on the Fresno Redevelopment Agency (RDA) covering the volume and nature of its activity.

MAYOR-COUNCIL GOVERNMENT

Introduction

The 2003/04 Fresno County Grand Jury (FCGJ) was made aware of concerns expressed by citizens, print and electronic media, incumbent and former elected officials, current and prior department heads and current and prior staff.

These concerns focus on several different areas.

- The apparent lack of civility and the inability of certain elected officials to work with each other, city staff and the city's leadership in a harmonious manner.
- The need for a balanced and reasonable relationship with the labor unions that represent the city's workforce.

During the process of preparing this report the FCGJ interviewed past and present members of the city council, city manager and staff, heads of departments, labor leaders, and the city's current mayor and predecessor. A review of the city's charter was conducted.

Findings

- A. There is a lack of communication between members of the City Council and members of the City staff.
- B. The City Manager requires responses to inquiries from the City Council to the City staff be routed through his office.
- C. Effective decision-making is hindered by a lack of clear lines of authority.
- D. Some members perceive that the Mayor and City Manager do not provide complete information to the City Council regarding matters under consideration.
- E. The City Charter (Article V Section 500) charges the City Council with "all powers of legislation in municipal affairs."
- F. The City Charter (Article IV Section 400) charges the Mayor with "the proper and efficient administration of all affairs of the City."
- G. City Council members have demonstrated a lack of a citywide vision regarding issues facing the entire city.
- H. Personal agendas have been parochially driven by issues affecting individual Council districts.

- I. The City Council has caused approximately \$2.2M to be removed from the city general fund for purposes of infrastructure and discretionary allocation to be used in their districts.
- J. Requests for Proposals (RFP) and Request for Quotations (RFQ) are documents between the City and potential vendors.
- K. The City Council has exceeded its authority by interfering with the RFP/RFQ process and contract negotiations.
- L. In the past, City Council members have met with potential vendors in advance of the formal opening of proposals.
- M. Unions may have a significant influence on actions of the City Council through their political contributions.
- N. The City Charter requires the city to go from seven to nine City Council districts “at such time as the population of the City of Fresno reaches 540,000.”
- O. The Mayor has no veto power over land use decisions made by the City Council.
- P. The Mayor has no vote on the settlement of lawsuits against the City.
- Q. The Mayor has no independent legal counsel provided by the City.
- R. The City Attorney and City Clerk are appointed and dismissed by the City Council.

Conclusions

- A. The City Council has not complied with the City Charter section that empowers the Council to legislate policy and the Mayor’s office to administer City affairs. The City Council exceeds its authority when they attempt to manage City affairs in a manner contrary to the city charter.
- B. The lack of adequate exchange of information interferes with the best practices in city government.
- C. The Mayor’s office should have authority to participate in land use decisions and the settlement of lawsuits.
- D. After the solicitation for bids has been initiated, lobbying of the City Council and their staff by vendors in the RFP and RFQ process does not benefit the City.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

1. Re-establishment of the Charter Review Committee with members representing the broad diversity of interests in the community. The charge to this Committee is to review the City Charter and make recommendations on amendments to improve the efficiency of City government. Specific potential charter changes to be studied are:
 - a. City Council Districts
 - 1.) The current district structure
 - 2.) At-large representation
 - 3.) District boundary changes
 - 4.) New districts to be added as required by the City Charter
 - 5.) The 30 day residency requirement
 - b. The Mayor be given authority in decisions regarding land use and disposition of lawsuits.
 - c. The Mayor be given access to independent legal counsel supplied by the city.
2. The City Council comply with and restrict its duties as written in the City Charter.
3. The Council be briefed on a biweekly basis by the Mayor's staff regarding current issues, and those under consideration.
4. Infrastructure and other similar discretionary funds given to the City Council be eliminated.
5. The roles and lines of authority of the Deputy Mayor, Deputy City Manager and Deputy Administrator be clarified.

City Of Fresno Risk Management

Workers Compensation

Introduction

Over the past ten years the cost of the City of Fresno's (City) Workers' Compensation program has increased over 200%. A variety of factors including state mandated benefit increases and negotiated rates with city labor unions above the state mandated rates account for the dramatic rise in costs. Concern was expressed by elected officials and city staff, as well as by the media, regarding this continued unimpeded escalation. The 2003/2004 Fresno County Grand Jury received testimony and documentation from city staff, journals and from the local press.

Findings

- A. The City has been self-insured since 1973.
- B. All individual claims under \$2 million are paid from current City operating funds. Individual claims in excess of \$2 million are covered by excess insurance.
- C. There has never been an individual claim paid exceeding \$750 thousand.
- D. In fiscal year 2003, the total benefits paid under the City's Worker's Compensation program were approximately \$8 million.
- E. The City's contingency reserve fund has been depleted by the prior administrations. As of this reporting, the fund contains virtually no reserves.
- F. Currently there is a three-day waiting period before indemnity benefits (pay replacement) are paid to employees injured in the course and scope of city employment. Employees can use sick day benefits during this period. Any sick pay benefits used during the waiting period are reinstated if total work time lost, because of injury, exceeds 14 days.
- G. Under the terms of the Fresno Municipal Code, an employee injured in the course and scope of city employment receives a percentage of full wages or salary (injury pay) in lieu of temporary disability payments as mandated by the State of California. Injury pay is limited to one year.
- H. Temporary disability benefits mandated by the State of California are 66.67% of pay. The minimum weekly benefit is set at \$126 with a maximum of \$728. These payments are limited to five years.
- I. Since 1986, the injury pay rate has been included in all agreements negotiated between the City and the various bargaining units of city employees.

- J. The current injury pay benefits range from 66.67% for the approximately 100 unrepresented city employees to 76% for all bargaining units except those representing police, fire and sanitation workers who receive 85% of full salary.
- K. The total injury pay benefits for unrepresented employees were \$302 in fiscal year 2002 and \$0 in fiscal year 2003.
- L. Using fiscal year 2003 figures, the City would save in excess of \$575 thousand if all injury pay rates were set at 66.67% of full pay. If all injury pay rates were set at 76% of full pay, the City would save over \$282 thousand per year.
- M. Injury pay benefits as well as state-mandated temporary benefits are considered non-taxable income to the worker.
- N. The City currently contracts with a third party administrator (TPA) to manage its Worker's Compensation program.
- O. As a result of competitive bidding, a new TPA has recently been retained. This change offers an opportunity for some cost savings and potentially improved data collection.
- P. Medical benefits such as doctor's fees, medication, rehabilitation, etc., paid under the Workers' Compensation program now exceed indemnity (lost wages) payments. Medical costs have been rising 12% to 15% per year.
- Q. Of the 941 worker's compensation cases reported in the 2003 fiscal year, 550 were for medical benefits only.
- R. Under state law, employees may predesignate their personal physician as treating physician in the case of a potential job related injury. If predesignation does not occur, the City may make the physician referral. After 30 days employees resume the right to designate their physician of choice.
- S. The fees allowed for treatments and the reasonable number of treatments for a specified injury are prescribed or in the process of being prescribed by state law.
- T. Utilization controls such as co-payments, deductibles, closed PPO's, and utilization review are all programs that contribute to cost mitigation in most health care systems. There are no such cost containment provisions present in the California Worker's Compensation program.
- U. There is always the possible opportunity for fraudulent claims to exist. A limited number of these claims may be tested by "sub rosa" (undercover) investigations that are authorized to establish the authenticity of the claim. These investigations are considered very costly and are rarely initiated

unless there is a strong third party whistle blower who is willing to identify the abuse.

- V. The city staff spends more time on safety related issues and appears to be disinclined to aggressively pursue abuse.
- W. Light duty and limited duty programs have been implemented to encourage workers early return to work.
- X. The risk management staff has set modest goals for themselves to reduce injury incidents and worker's compensation medical costs.
- Y. City departments are not being charged their actual loss experience in their budgets, thus there is less incentive for effective safety programs. This makes it more difficult to get employees to return to the job.
- Z. Disciplinary action against employees, who violate safety rules and sustain industrial injuries, is not uniform throughout the various city departments.
- AA. The City has not been collecting valuable data that would quantify injuries by type, department, job classification, job location and other potentially useful diagnostic and management information.
- BB. City management in many areas has used a study of "best practices". The city has not employed this methodology regarding industrial injuries and its cost containment.
- CC. It is estimated by City staff that 95% of employees on injury pay return to work within 6 months.

Conclusions

- A. The Workers' Compensation Program is a complex system that is made increasingly complicated by state mandates.
- B. The drained City's Worker's Compensation contingency fund is a cause for concern based on the rapidly escalating costs in this area.
- C. A tax-free injury pay benefit of 85% of full pay is not an incentive for encouraging workers to return to work. This benefit provides these workers with an increased net wage benefit.
- D. A plan for the use of data collection enhancements should result from the City's new TPA relationship.
- E. The City will benefit from data resulting in actions that would enable it to control the escalating medical costs.

- F. The increased use of the “sub rosa” technique in investigating suspected abuse would send a signal to potential abusers.
- G. Any goals to reduce injuries and costs will be more readily achievable if all members of the City management team embrace them. This is an objective that should be of concern to the entire organization.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 6. The City should deal equitably with all workers and provide them with the state mandated temporary disability benefit.
- 7. The City limits the injury pay rate to 70% of full wages for all employees.
- 8. Employees experiencing extraordinary financial demands during this temporary disability period be permitted to cash out accrued vacation and sick pay.
- 9. The injury pay benefit be reduced to six months.
- 10. Employees be required to use medical providers selected by a city designated PPO network.
- 11. Targeted “sub rosa” investigations be scheduled at random and also be directed at suspicious claimants.
- 12. All supervisors and managers throughout the entire city staff, take an active role in reducing injuries and containing costs. Cost reduction goals should apply to the entire organization and effective performance should be noted in staff performance evaluations.
- 13. City staff use available statistical data that is now easily accessible.
- 14. Management study and compare the practice and methods of other jurisdictions, agencies and the private sector to determine what methodologies, strategies and tactics are most effective.
- 15. The City organize employee safety committees by department and provides a reward system for its success.

BOND DEBT AND FINANCIAL CONDITION CITY OF FRESNO

Introduction

At the time the City of Fresno issued its annual financial statement for the fiscal year 2000 (as of 06/30/00) there was concern regarding the City's creditworthiness and its ability to continue to assume additional bond debt.

The incoming mayor and his staff, supported by the newly appointed finance director, outlined an extensive plan to correct existing problems and to improve the fiscal health of the City.

The 2003/2004 Fresno County Grand Jury (FCGJ) reviewed the City's current financial condition, with a particular interest in the condition of long-term debt, and assessed the progress that the incumbent team has made in their first four-year term.

During the course of its review the FCGJ interviewed the mayor, key staff members, elected officials and the finance director. Copious amounts of data were requested and supplied. The condition of the City currently is improved. Previously existing problems have been addressed and faulty procedures have been corrected. In preparing this report, the FCGJ has utilized a spreadsheet, Finding A, to delineate selected financial findings. The spreadsheet was prepared at the request of the Jury by the office of the finance director.

As you proceed with reading this report please refer to the material provided in Finding A. This is a graphic presentation of the progress that has been made and a conservative estimate of the short-term future (5 years).

Findings

- A. The first finding indicates past (years 2000 to 2002), present (years 2003-2004) and future (years 2005to 2009) relationships regarding bond debt. This spread sheet was prepared in response to a questionnaire prepared by the FCGJ by the City of Fresno Finance Director.

**CITY OF FRESNO
Bond Debt Summary
As of June 1, 2004**

Finding A (continued)

	Year Ended June 30, 2000	Year Ended June 30, 2001	Year Ended June 30, 2002	Year Ended June 30, 2003	Year Ended June 30, 2004	Year Ended June 30, 2005	Year Ended June 30, 2006	Year Ended June 30, 2007	Year Ended June 30, 2008	Year Ended June 30, 2009
Beginning Bond Balances	\$ 691,619,535	\$ 713,804,535	\$ 741,634,535	\$ 722,709,535	\$ 698,829,535	\$ 732,904,545	\$ 730,949,535	\$ 710,049,535	\$ 701,816,927	\$ 677,535,937
Principal paid	(19,710,000)	(18,020,000)	(15,365,000)	(18,465,000)	(18,705,000)	(19,955,000)	(20,900,000)	(23,232,608)	(24,280,990)	(25,422,095)
Defeased Net	(1,150,000)	-	(3,560,000)	(5,415,000)	-	-	-	-	-	-
New Bond Debt	43,045,000	45,850,000	-	-	52,780,000	18,000,000	-	15,000,000	-	12,000,000
Ending Bond Balances	\$ 713,804,535	\$ 741,634,535	\$ 722,709,535	\$ 698,829,535	\$ 732,904,535	\$ 730,949,535	\$ 710,049,535	\$ 701,816,927	\$ 677,535,937	\$ 664,113,842
Per Capita Bond Balance	\$ 1,697	\$ 1,679	\$ 1,638	\$ 1,559	\$ 1,629	\$ 1,608	\$ 1,547	\$ 1,514	\$ 1,447	\$ 1,404
Reason for New Debt	Airport	Construct Multipurpose Stadium	N/A	N/A	Construct/Acquire New Facilities	Neighborhood Infrastructure Initiative	N/A	Neighborhood Infrastructure Initiative	N/A	Neighborhood Infrastructure Initiative
Population	420,600	441,600	441,200	448,200	450,000(est.)	454,500 (est.)	459,045 (est.)	463,635 (est.)	468,271 (est.)	472,954 (est.)
Interest Paid	\$ 26,486,166	\$ 30,479,188	\$28,596,164	\$ 35,871,506	\$ 36,121,381	\$ 38,851,182	\$ 38,200,794	\$ 37,307,216	\$ 37,307,216	\$ 37,307,216

B. The spread sheet (Finding A) reflects the effect of a \$52,780,000 consolidated borrowing as of 6/30/04 for the purpose of financing the following included items:

• Convention Center parking garage	\$28.18	million
• Downtown parking lot	\$7.62	"
• Santa Fe Depot	\$1.25	"
• Fire Department	\$4.82	"
• Roeding Business Park traffic signal	\$1.50	"
• Country Court Development	\$2.60	"
• Calcot – (Palm Bluffs Development)	\$4.73	"

C. The spread sheet (Finding A) includes the effects of three part borrowing to improve neighborhood infrastructure over a six year period as agreed upon by the mayor and the City Council

• As of FY 05	\$18 million
• As of FY 07	\$15 million
• As of FY 09	\$12 million

D. Other anticipated major bond indebtedness expected to be assumed by the City and not included in the spread sheet is:

• Rehabilitation of the Convention Center estimated	\$12million
• Refinancing of the employee pension plan estimated	\$12million

E. Fresno is the sixth largest city in California by population.

F. The metropolitan region is the second fastest growing area for new jobs in the state and eighth in the nation.

G. The City of Fresno was recently ranked by *Inc Magazine* as the fourth best medium metropolitan area in which to conduct business nationwide.

H. The City has an \$8.9 million reserve for economic uncertainty. This general fund reserve can only be used by the Mayor's declaration of a fiscal emergency, and ratification by a super majority of the City Council.

I. Current unreserved general fund balance for the City of Fresno is 10.5% and the cash balance is \$12 million.

J. The City's pension systems are well financed, no contribution by the City has been required since 1996, due to accumulated surplus earnings. It is expected that no contribution by the city will be needed until at least 2007.

- K. City's economy, finance and management team warrant an AA level bond rating because:
- City has a diverse and stable economic base with expected continuation of corporate and residential growth
 - City has an experienced management team with demonstrated track record
 - City's finances are sound and supported by demonstrated commitment to fiscal stability
- L. In the past, officials who were elected to four-year terms had advocated and supported financially irresponsible projects that left the City with a multi-year drain (length of bond repayment) on the City's general fund.
- M. Political influence by major contributors has led the City, in the past, to approve projects that have been quite costly to the City for many years after the officials are no longer in office and away from public scrutiny.
- N. Urban Growth Management fees are charges paid by real estate developers to offset the cost of community infrastructure payments. The City acts as a trustee for these funds after they have been collected until they are expended. There is presently \$48 million in approximately 140 separate accounts. If the fees do not cover the expenditure when it has to be made then the City has to fund the balance. In the past some of these funds may have been co-mingled and bond resources used for payment.
- O. A bond for \$5.1 million was issued by the City in anticipation of the State paying its Motor Vehicle License Fee obligation due August 2006.
- P. As a result of a recent review of the proposed general obligation bond offering for the City of Fresno, the nation's three major bond rating services had reported in writing their perception of the City's financial condition.
- Q. Fitch Ratings – San Francisco – March 19, 2004 reported highlights are quoted as follows:
- A+ rating to the City of Fresno Joint Powers Financing Authority. Approximately \$54.2 million services 2004 lease revenue bonds
 - Fitch assigned implied general obligation bond rating of AA to the City of Fresno. The rating outlook is stable
 - A+ rating reflects City's stable economy, strong financial results, prudent management practices and above average reserves
 - Sound base structure and moderate debt burden are key credit factors
 - Tax base and underlying economy are slightly concentrated although diversifying

- The City's jobless rate is still substantially higher than the state and national level at 12.9% for 2002
 - City's financial operations are well managed with conservative revenue forecasting and excellent cost control
 - Debt burden is moderate. Debt burden is \$896 per capita and 2.25% of assessed value
- R. Moody's Rating Committee assigned a rating of A-3 to Fresno lease revenue bonds. At the same time Moody's has also affirmed the City's A-1 issuer rating (implied general obligation).
- S. Standard and Poor's rating of Fresno, CA Tax Secured, General Obligation Bonds is AA.
- "A growing local economy consisting of an employment base of diverse agriculture, government and services"
 - "A growing and further diversifying tax base that is expanding with continued residential and commercial expansion"
- T. In discussions regarding finances of the City, certain elected officials were not familiar with the basic elements of the City's finances.

CONCLUSIONS

- A. Bond debt for the City of Fresno is less at the end of FY 2003 than it was at the end of FY 2000.
- B. Bond debt as planned for the City of Fresno for the end of FY 2009 will be less than debt at the end of FY 2003.
- C. Per capita bond debt for the citizens of Fresno is currently \$1,554 (FY 2003) and is planned to be reduced by the end of FY 2009 to \$1,404.
- D. Population at end of FY 2000 was 420,600. Population for the end of FY 2009 is projected to be 472,954.
- E. The spread sheet in Finding A indicates that acceptance of the two major bond packages as discussed, will be absorbed in the City's general operation and should not place any unusual strain on the financial operations.
- F. Although the additional costs of the Convention Center rehabilitation and the refinancing of the retirement fund are not factored in, it appears that they can be managed when they occur without straining the City's finances.

- G. The City of Fresno is growing and its economic base is improving. Should the administrations projections be correct, the financial objectives will be exceeded.
- H. Although the City's pension plan does not present a current problem it will need to be monitored closely.
- I. Elected officials, including some City Council members, do not have the knowledge and understanding they need to make important financial decisions.
- J. City officials have been advised by major bond rating services that even though general bond ratings have improved, there are areas to continue to watch closely.
- Monitor debt closely
 - Unemployment is still high
 - A growing and further diversifying tax base that is expanding with continued residential and commercial expansion
 - Keep current financial team intact
- K. Elected officials are continually trying to influence financial decisions regarding the City's granting of major projects.

RECOMMENDATIONS

The 2003/2004 Fresno County Grand Jury recommends that:

16. The Mayor and the City Council not allow the City to assume additional Bond Debt until the level of indebtedness drops below \$675 million.
17. The additional labor hired to complete the accelerated infrastructure work planned in the City's declining neighborhoods not be added to the City's regular work force. It is assumed that after the six-year anticipated accelerated program, the demand for additional workers will return to current levels.
18. During the period of the six-year infrastructure update program, the City Council and the Mayor agree that there be no additional funds added to the individual council members' discretionary fund. This amount should not exceed \$50,000 per district.
19. The City and the development community agree on an Urban Growth Management fee structure that will support the new infrastructure required.
20. Fees for urban growth management be adjusted annually.

21. The finance director or designated staff person should be involved when financial negotiations are being conducted between the City and other parties where the project may require long term financing.
22. No City official should be asked to approve a bond issue without a positive opinion on the part of the finance director.
23. Financial workshops should be held for the City Council before they are asked to vote on matters that would cause the City to incur major debt.
24. The 2003/2004 Grand Jury recommends that future Juries continue to regularly review the financial condition of the City and its performance against its objectives.

THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO

Introduction:

The Redevelopment Agency (RDA) of the City of Fresno is established and defined by state law as a separate, government authority with its own revenue, budget and staff. Its powers include issuance of debt and exercising the right of eminent domain in the acquisition of private property. RDA's stated purpose is to eliminate blight and promote economic development. An RDA's cycle of activity is to define a project area, designate the life of the project area (generally 40 years), develop a plan for improvement, finance the improvements including land acquisition and retire the debt with the increased property taxes generated by the redevelopment. This latter revenue source is generally referred to as incremental property tax revenue. The 2003/2004 Fresno County Grand Jury investigated the mission and operations of RDA of the City of Fresno.

Findings:

- A. Out of California's 475 cities, 356 have active redevelopment agencies.
- B. The City of Fresno realizes 25% of the property tax collected in the city with the balance going to school districts, the state and other taxing entities.
- C. In the case of incremental property tax revenue, RDA retains more than half of the new tax income. Twenty percent of the total income is directed to low income housing and the balance distributed in negotiated percentages to other taxing entities.
- D. The RDA has a board of directors and an executive director appointed by the Fresno City Council. In Fresno, as in most cities, the city council appoints themselves as the board of directors.
- E. At the close of FY 2003, RDA held property for resale, of approximately \$25 million. Many of these non tax-producing parcels have been held for over 30 years.
- F. A large number of the held parcels are easements, property purchased for public improvements, parcels now earmarked as pocket parks or for use by non-profit organizations.
- G. The current number of RDA projects is 142 and growing.
- H. Over \$52 million of RDA's approximately \$89 million of long-term debt is owed to the City of Fresno.
- I. The RDA has a \$36.7 million accrued interest payable liability to the City of Fresno.

- J. In FY2003 there was a significant spike (50%) in incremental tax revenue primarily due to increased property values in two redevelopment areas. Total incremental tax revenues exceeded \$9 million.
- K. The RDA, through the mechanism of merging RDA plan areas, is able to shift tax revenues in excess of debt reduction requirements from one project area to another.
- L. The RDA has merged project areas commingling expense and revenue streams and extending the life of a redevelopment area.
- M. The RDA's guiding premise espoused in testimony by its leadership is "Debt is Good."
- N. The City of Clovis RDA leadership detailed a more structured and limited vision for project areas than that of the City of Fresno.
- O. Clovis is interested in having redevelopment projects completed and having the entire tax base go their general fund and school budget.
- P. The mayor and the executive branch of the City of Fresno have no direct authority over the RDA.
- Q. Board of Directors of the Fresno RDA claimed to be unaware of the extent of RDA property held for resale and the length of time property has been held.
- R. RDA Board of Directors have a reliance on the executive director's vision and tactics.

Conclusions

- A. The RDA is a powerful governmental tool for expediting change in a community.
- B. The near term RDA benefits for the City of Fresno's General Fund are increased sales tax revenue and infrastructure development and improvements.
- C. Aggressive RDA activities have the potential of diverting increased property tax revenues from the state, city and school districts.
- D. There is no evidence of independent oversight of decisions made by the RDA staff as a result of the City Council also sitting as the RDA Board of Directors.

- E. The property currently held for resale (\$25million) is valued at the RDA's cost or current market value, whichever is less. There is concern that the value of this property is overstated.
- F. The Grand Jury's inquiry, particularly with respect to date of acquisition of property currently held by the RDA, appears to have prompted disposition of some parcels.
- G. The City of Fresno's debt can be increased without taxpayer approval, as the City is the ultimate guarantor of RDA debt.
- H. The Fresno City Council members are part time legislators and the complexities and the need for diligent oversight of RDA may be an unreasonable expectation of the members.
- I. The operations of the RDA are complicated and not always understandable to City officials and the public.

Recommendations:

The 2003/2004 Fresno County Grand Jury recommends that:

- 25. A system needs to be put in place to control the inventory of acquired properties. Controls should include a reason for acquisition and the anticipated date of disposition.
- 26. Properties currently in inventory not scheduled for disposition or earmarked for near term projects be offered for sale and the proceeds conveyed to the City of Fresno to reduce the obligations of the RDA.
- 27. The composition of the RDA board be changed to give the Mayor's office majority representation without a change in the total number of board members.
- 28. The operations of the RDA need to be made more transparent to city officials and the general public.

FRESNO COUNTY COMMITTEE

Ed O'Neill, Chair

Henry Chin

Robert Gutierrez

Paul O'Rourke

Yvonne Setencich

Sam Yelenick

FRESNO COUNTY COMMITTEE

INTRODUCTION

The County Committee of the 2003/2004 Fresno County Grand Jury responded to several citizens' complaints regarding cities within the County and focused on issues impacting the entire community. County departments and special districts were reviewed. The committee interviewed a number of officials, department heads and employees of the County. The committee proceeded with its investigation culminating in these reports:

- The City of Mendota
- Land Retirement in Western Fresno County

CITY OF MENDOTA

Introduction

In response to a complaint from a number of citizens of the City of Mendota (City) alleging various financial and personnel management improprieties, the 2003/2004 Fresno County Grand Jury undertook an investigation. During this process, elected officials, city officials under contract and city employees were interviewed.

Findings

- A. Mendota is a general law city of approximately 8,000 residents governed by a five-person City Council, which elects a mayor from its membership. In fiscal year 2003/2004, the City is operating with a general fund budget of \$1.2 million.
- B. The unemployment rate in the City is approximately 35%.
- C. There have been fourteen city managers within the past ten years.
- D. Currently, the City does not have a city manager. It is managed by a committee of senior staff reporting to the mayor. The City is conducting a search for a city manager.
- E. The total number of full-time City employees is approximately twelve.
- F. In the past 18 months, there have been a number of employees terminated. Some terminated employees were rehired and then dismissed again for other reasons.
- G. The City maintains two credit cards with Stockmen's Bank. One is designated for use by the mayor and the other by the City manager.
- H. In the year 2002/2003, the mayor used his assigned credit card for personal purchases. He subsequently repaid the City.
- I. In January, 2003, the City council, at the request of the City manager, adopted a resolution authorizing a relief effort for the city of Ixtlahuacan in the State of Colima, Mexico that experienced a major earthquake. The City manager was involved in property development in Ixtlahuacan, Colima.
- J. The City manager and mayor, without City council approval, were advanced \$5,000 of City funds for relief of earthquake victims. The check was made payable to a liquor store that waived the money order fees and converted it into fifty \$100 money orders.

- K. The City has a written policy authorizing the finance director to issue a check in the amount not exceeding \$5,000 for emergencies benefiting the citizens of the City. There is no policy authorizing expenditures for the benefit of other cities.
- L. The City manager solicited the relief funds from private contributors. The fund balance never reached the anticipated \$5,000 and the City manager personally contributed \$705 to cover the shortfall.
- M. Copies of records to support the purchase of these money orders are maintained as part of the audit trail, but there is no practical way of verifying the receipt of these funds by the earthquake victims.
- N. The City manager made an unauthorized trip to Ixtlahuacan using the City credit card. Ultimately, he repaid the charges for the trip.
- O. The City had received Community Development Block Grant (CDBG) funds to renovate its community center. It contracted for this work improperly, by not using a formal Request For Proposal process, and the contractor was not required to pay prevailing wages. This impropriety resulted in the inability of the City to use the CDBG funds as planned. Consequently, funds had to be drawn from the General Fund.
- P. The City has funded Christmas parties for employees and elected officials with donations solicited from vendors doing business with the City.
- Q. The City attorney's function is currently being performed by an independent attorney under a retainer contract dated July 14, 1998.
- R. The City entered into another contract, dated June 8, 1999 with a law firm for legal services the City needed on a water project with the U.S. Department of Agriculture. The contracted services are to be paid on an hourly basis. The current City attorney is a member of the contracted law firm.
- S. The City attorney is currently being compensated for work performed as City attorney under the terms of the hourly rate contract and not on the retainer contract.
- T. In the first six months of FY 2004, the City paid attorney's fees of \$319,141.

Conclusions

- A. The high turnover rate in city managers has created confusion among the City's staff.

- B. The use of a city credit card for personal purposes is in violation of existing City policy.
- C. The relief effort to assist Ixtlahuacan, Mexico, violated numerous City ordinances and policies.
- D. The issuance of a \$5,000 City check for the humanitarian effort is not consistent with City policy on emergency disbursements.
- E. The oversight in the use of grant monies is lacking.
- F. Soliciting contributions from city contractors to fund social events conveys to the public an impression of impropriety.
- G. The fees paid to the City attorney for his services as City attorney are not based on his retainer contract executed on July 14, 1998.

Recommendations

The 2003/2004 Grand Jury recommends that:

- 29. The City adopts a new policy setting forth procedures for issuance and use of City credit cards for city employees only, including penalty provisions on misuse.
- 30. The City council reviews all employee terminations.
- 31. The Ixtlahuacan, Colima earthquake relief effort and expenditures be reviewed in a public hearing allowing citizen concerns to be addressed.
- 32. The City Council employ the services of a legal fees audit firm to audit the City's legal expenditures, including all current contracts.
- 33. Employee parties should not be funded by soliciting contributions from vendors.

LAND RETIREMENT IN WESTERN FRESNO COUNTY

Introduction

The 2003/2004 Fresno County Grand Jury (FCGJ) studied the issue of land retirement. Land retirement is taking farmland out of production, because the soil has become too salinized to grow crops. The FCGJ examined the impact of land retirement on the economies of the affected communities and reviewed the policies and strategies proposed and undertaken to address the consequences of land retirement.

Findings

- A. To deal with the problem of salinization and insufficient and unreliable water supplies, the U.S. Government has initiated preparation of an Environmental Impact Study to purchase up to 200,000 acres of drain-impacted land from individual landowners and permanently remove the land from irrigated agricultural production. The 200,000 acres are located primarily in Western Fresno County, but also includes parts of other central valley counties. The land proposed for removal is equal in size to 312 square miles in a 6,000 square mile county.
- B. The retired land would be turned over to Westlands Water District for management as a wildlife habitat, dryland (not irrigated) farming, or other related economic activities.
- C. There has been a continuous trend, for several years, in Western Fresno County, to take farmland out of production because of salinization. Salinization is the process by which soil becomes oversaturated with salts. It is estimated that 35,000 to 70,000 acres of farmland have already been taken out of production due to salinization. The 200,000 acres that the U.S. Government proposes to retire to deal with salinization includes the acreage already idled. Salinization in Western Fresno County is caused in part by irrigating farmland with water containing salt. The irrigation water evaporates leaving the salt behind. Unless drainage service is provided, the salt build-up will continue.
- D. Workers who become unemployed because of land retirement may lose their employer provided housing. Many of these workers may need assistance in securing housing and transitioning to other occupations. Agencies such as the Workforce Investment Board and the Fresno County Public Works and Planning Department are focusing on these issues.
- E. As farmland is taken out of production the income, profits, and taxes that were generated are lost. As land retirement progresses, the business sector is also affected. The ability of local governments to provide

services will diminish as a result of lower tax revenues. The office of the Assistant County Administrative Officer for Economic Development is taking the lead in the area of economic development.

- F. The loss of tax revenues is having a detrimental effect on school districts. Loss of tax revenues reduces operating funds and hampers the ability of school districts to service their bond debt.
- G. Currently, 41 government agencies and cities are mobilizing independently to deal with the repercussions of land retirement.

Conclusions

- A. Land retirement is having a multidimensional, deleterious effect on Western Fresno County. As land retirement continues, its adverse consequences will increase in scope and severity. It will affect agriculture, land use, land management, taxes, employment, housing, schools, businesses and communities in the impacted area.
- B. The efforts to address the problems of land retirement are uncoordinated. The agencies and cities involved are addressing the problems in their areas of responsibility and jurisdiction, independent of one another.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 34. A task force be established by the Fresno County Board of Supervisors to coordinate the services and activities being mobilized to deal with the consequences of land retirement. This will facilitate the formulation of a cohesive, comprehensive, action strategy. The task force has representation from the core agencies and incorporated cities dealing with land retirement including the following:
 - Assistant County Administrative Officer for Economic Development
 - Representatives from Westlands Water District
 - Fresno County Department of Education
 - Fresno County Public Works & Planning Department
 - Fresno County Workforce Investment Board
 - Fresno County Housing Authority
 - Incorporated cities from Western Fresno County
 - Other agencies as deemed appropriate by the task force
- 35. Lead responsibility to organize and to administer the task force be assigned to the Assistant County Administrative Officer for Economic

Development because of the lead role that office has undertaken in addressing the concerns of land retirement.

EDUCATION AND YOUTH COMMITTEE

Jill Robinson, Chair

James Cotton

Mary Ann Dews

Fred Goldring

Tony Peranick

Bill Rogers, Jr.

EDUCATION AND YOUTH COMMITTEE

INTRODUCTION

In response to a citizen's complaint, a high school protest, news releases and prior Grand Jury recommendations, the Education and Youth Committee of the 2003/2004 Fresno County Grand Jury focused its investigations in several areas concerning the youth of Fresno County.

Information was assembled by interviewing citizens, elected officials, various department heads and staff, foster parents, school personnel, by reviewing official documents, policies and procedures and by visiting several facilities.

The Education and Youth Committee is reporting on the following:

- A. Volunteerism in the Fresno Unified School District
- B. Problems in Fresno Unified School District High Schools
- C. Department of Children and Family Services Foster Care System

VOLUNTEERISM IN THE FRESNO UNIFIED SCHOOL DISTRICT

Introduction

A letter was received requesting the 2003/2004 Fresno County Grand Jury review the Fresno Unified School District's policies and procedures regarding volunteers.

The citizen wished to offer services as a mentor. The request was made to a specific middle school. It took three weeks for the school's Human Resource Director to respond. Instructions were given to go to Fresno Unified School District's downtown office where the volunteer's fingerprints would be taken for a fee of \$50.00. The only acceptable method of payment would be a cashier's check in that amount. Fingerprints taken by the Fresno County Sheriff's Department for another volunteer situation were offered instead of taking new prints. Fresno Unified School District will not accept any fingerprints other than those taken by their own personnel.

The Grand Jury Education and Youth Committee decided to investigate the volunteer procedures and the charge of \$50.00 to those wishing to volunteer.

Findings

- A. Fresno Unified School District does have a written policy regarding the procedure to volunteer in its schools.
- B. Fees are charged for fingerprinting all employees hired in the school system.
- C. Fingerprints are required of all volunteers who work one on one with children in the school system.
- D. The fee charged to all one on one volunteers is \$50.00, while the fee charged to noontime volunteer assistants is \$34.00.
- E. Title 1 Schools have provisions to waive the fingerprinting fee, if the fee is determined to be a financial burden.
- F. Fingerprinting of volunteers is waived for parents or grandparents who are volunteering in their own child's classroom.
- G. Fresno Unified School District will not accept any fingerprints other than those taken by their own personnel.

- H. Interviews with administrative personnel, librarians and classroom teachers have indicated volunteers are helpful and desirable.
- I. The person to contact on this subject is the Coordinator of Certified Personnel, Fresno Unified School District.

Conclusions

- A. It is reasonable and responsible to require all volunteers who work one on one with children in the Fresno Unified School District to be fingerprinted.
- B. It may be a deterrent to charge a \$50.00 fee to adults who wish to volunteer their services.
- C. There are many areas in schools where volunteers may be utilized.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 36. A printed pamphlet entitled "Volunteerism" should be provided by Fresno Unified School District to all schools to distribute to potential volunteers. It should clearly state District policy and the cost entailed to volunteer.
- 37. Fresno Unified School District review the cost of fingerprinting for volunteers. Consideration be given to the elimination of this fee.
- 38. The subject of volunteerism, including the utilization of volunteers in certain areas and the cost entailed be discussed at the beginning of each academic year at PTA and/or Site Committee meetings.

**PROBLEMS IN
FRESNO UNIFIED SCHOOL DISTRICT
HIGH SCHOOLS**

Introduction:

The Education and Youth Committee of the 2003/2004 Fresno County Grand Jury (FCGJ) reviewed the reported concerns of students at Fresno High School. A group of students believed their concerns were serious enough to cause them to organize and hold a pre-school rally. Thereafter, an unauthorized student march to the Fresno Unified School District (FUSD) administrative office occurred.

Several other high school sites were studied to determine if these problems existed on other campuses.

The students' complaints centered around four issues:

1. Infestation of cockroaches and rodents
2. Shortage of desks in overcrowded classrooms
3. Shortage of textbooks in some classes
4. Inadequate custodial and maintenance care

While investigating the problems of textbooks, it was determined there were other systemic problems existing throughout the school district. The schools do not share ideas with each other, the district does not maintain adequate oversight of the school sites and the district does not create, direct or follow-up on policies concerning school management practices.

To investigate the above concerns, the committee interviewed:

1. Members of the FUSD Board of Education
2. High school principals, librarians and teachers
3. Some members of the District office staff
4. A representative of a non-profit organization that advised the student leaders during the Fresno High School march.

Findings:

- A. The rodent problems do not appear to be pervasive.
- B. The FUSD has pest control firms under contract. Upon notification of a rodent or cockroach problem, the pest control firms promptly respond.

- C. High schools have a variety of clubs, teams, etc. that require financial assistance. In order to raise necessary funds the groups hold fundraisers. Much of what is sold is edible.
- D. The cockroach problem is exacerbated when students and faculty do not practice proper procedures for storage of unconsumed food or for disposing of edible trash in the classroom.
- E. Most high schools have extra desks to replace broken or damaged desks. In an emergency, principals can call other school sites or the central warehouse to obtain needed desks.
- F. At the end of the school year, it is standard procedure to inventory classroom furniture and to order replacements.
- G. Some schools have an annual student transient rate (a student doesn't begin and end the school year in the same school.) as high as 51%.
- H. At the beginning of the school year, some classes are overcrowded until class sizes are balanced.
- I. Textbooks are available to the students from three sources:
 - 1. For in class use, some high school classrooms maintain a classroom set" of textbooks to give each student access to a textbook.
 - 2. At some school sites, enough textbooks are ordered to assign each student a textbook for use outside the classroom.
 - 3. High school libraries also have classroom textbooks available for students to use on site or to check out for home use.
- J. The process for acquisition and delivery of textbooks to school sites is adequate
- K. School site department heads are given a stipend for handling extra responsibilities, including ordering, distribution, care and collection of books
- L. Responsibility for textbooks at the school site is as follows:
 - 1. Principal
 - 2. School librarian
 - 3. Department heads
 - 4. Classroom teachers
 - 5. Student

- M. In some schools, up to 30% of the textbooks are not returned at the end of the school year. Some textbooks may be returned in damaged condition, making them unusable.
- N. Textbooks cost \$50.00 to \$150.00 each.
- O. Some schools do not reconcile the inventory of textbooks at the beginning of the school year with the number of textbooks returned at the end of the year. This information is needed in order to accurately order textbooks for the next school year.
- P. No uniform district wide system of unit control exists for textbooks. Some school site librarians have independently installed a packaged software stock keeping unit (SKU) system.
- Q. District wide funding for textbooks decreased from \$9.2 million in 2001 to \$3.3 million in 2003.
- R. Textbook funds are allocated on a per student basis. Additional textbook funds are available for Title One Schools (a majority of students are from lower socioeconomic disadvantaged families). Other special funds such as grant programs, pilot programs and lottery funds may also be available for textbooks.
- S. California will only fund programs that use state recommended textbooks. Currently, the state provides 80% of the funds for textbooks.
- T. Each school site is assigned a designated number of custodians to provide custodial care and make minor repairs.
- U. If a custodian is absent, a replacement generally is not assigned.
- V. A custodian's absence may result in reduced campus cleanliness and maintenance.
- W. Some principals try to limit class size to 38 students. Other principals allow teachers more latitude in determining class size.
- X. Educators indicate students perform better when parents are active, informed and involved.
- Y. The FUSD requires that principals control all aspects of school site management. There is limited oversight on the part of the district.
- Z. Some serious site problems have not been reported to the FUSD Board of Education.

Conclusions

- A. Concerns regarding the rodent and cockroach infestation were exaggerated. Corrective procedures were and remain in place when a problem occurs.
- B. A shortage of custodial help results in on site services being delayed and deterioration of facilities
- C. Involvement of FUSD administration and additional funding will be required to correct the custodial and maintenance problems.
- D. In order to correct a shortage, principals and staff can acquire extra desks from the central warehouse. There are also informal agreements between some schools to share desks when needed.
- E. Desk and furniture repair and replacement are provided in the normal course of school operations. A delay may occur as a result of teacher apathy in the timely reporting of problems.
- F. Planned control of class size has not been addressed in a formal manner by the district administration and school principals.
- G. Problems related to textbooks exist throughout the school system. Some of these problems relate to funding, inventory control and replacement of textbooks in a timely manner
- H. A district wide procedure for retrieving school textbooks is needed. This is especially true for schools with a high student transient rate.
- I. In FUSD schools, the principals are responsible for complete school site management. Some principals lack management skills.
- J. Having created autonomous site management, the FUSD has distanced itself from oversight responsibilities of the individual campuses.
- K. Each year the loss, defacing and theft of textbooks has caused a significant dollar loss within the district.
- L. FUSD administration is not aware of the annual dollar amount of lost or unusable textbooks.
- M. Schools with a high student transient rate lose more books than schools with a stable student body.

- N. Since 1993, there has been no change in district wide policy regarding accountability for textbooks. Upon review, the 1993 policy was found to be obsolete.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that Fresno Unified School District:

39. Develop a policy for replacing absent custodians in a timely fashion.
40. Develop a flash report to alert administrators at the next highest level when a problem develops on a school site.
41. Develop a district wide textbook distribution and return policy with a strong emphasis on student accountability.
42. Develop a procedure to annually account for all money that is lost as a result of lost or damaged textbooks.
43. Encourage open communication between District Administration and School Site management.
44. At each school site, develop procedures and rules for storage of edibles in the classroom.
45. The 2004/2005 Fresno County Grand Jury continues to monitor the Fresno Unified School District.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES FOSTER CARE SYSTEM

Introduction

Consider a child abandoned by birth parents, separated from family members because of unfavorable circumstances, subjected to abuse or neglect and forsaken without love or understanding. Such a child, and many others under similar circumstances, is shifted from one place to another as wards of the Foster Care Program in Fresno County. The purpose of this report as prepared by the 2003/2004 Fresno County Grand Jury is to detail its findings, conclusions and recommendations regarding the condition of Foster Care in Fresno County as it currently exists.

Some of our research found the same problems and concerns encountered by the 2002/2003 Fresno County Grand Jury in its report. The Department of Children and Family Services Foster Care System (DCFS) in response to last years report gave assurances that solutions to the recommendations offered were in process and major changes could be expected. To date, the problems remain and the changes needed to correct the situation have not been completed. Subsequently, additional areas of concern were found and included in this report.

Regarding the placement of children in foster care, the Family to Family Initiative is a program designed to be sensitive to the long term, continuous needs of children. The Family to Family Initiative in Fresno County is a new approach to the placement of children within the foster care system. The goals of this program are:

- Place the child within a home containing other members of the child's birth family
- Encourage placement retaining the child in a neighborhood and school that is familiar
- Decrease the total length of time the child remains in foster care
- Speed up the adoption or guardianship process to relieve a feeling of dislocation or abandonment
- Promote a cooperative relationship between birth and foster family members, service providers and agency staff to assure that placement decisions address the best needs of the child
- Avoid placing a foster child in harms way

Much of the criticism found by this Grand Jury comes from past and present members of the DCFS staff, as well as foster parents, Foster Family Agency (FFA) providers and several knowledgeable observers. In compiling this report, the Education and Youth Committee interviewed top administrators of the DCFS, independent agencies, foster parents and workers at several levels of the foster care system.

Findings

- A. In Fresno County the average number of times that a child in the foster care system is moved from one foster home to another foster home is 4.8 times.
- B. There are approximately 2,800 children in the foster care system in Fresno County.
- C. There are not enough foster homes.
- D. There were 242 adoptions of foster children in Fresno County in fiscal year 2002/2003.
- E. Community Care Licensing, a state agency, governs Foster Family Agencies (FFA). FFA's are for profit companies providing care for foster children.
- F. Community Care Licensing regulates Fresno County Foster Care Homes (FCFFH). FFA licensing requirements are more stringent than FCFFH.
- G. State rules and regulations are more stringent for FFA operation of foster homes than Fresno County's requirements for foster homes.
- H. The State requires FFA foster parents to have 20 hours of training before a license can be issued and a child can be placed in the home. The state requires a minimum of 12 hours of training annually thereafter. Some FFAs require up to 40 hours of training per year.
- I. The State requires county foster parents in FCFFH to have 12 hours of training before a license can be issued and a child can be placed in the home. Thereafter, the state requires a minimum of 8 hours of training annually.
- J. Fresno County requires prospective foster parents to complete 27 hours of training before a child can be placed in a home and 20 hours of training annually thereafter.
- K. The Department of Children and Family Services (DCFS), probation and Child Protective Services (CPS) all place children in FFAs.
- L. Components of the DCFS involved in foster care are spread throughout downtown Fresno, making it difficult to communicate with each other quickly and efficiently.

- M. There is a lack of understanding between Fresno County social workers and FFA social workers because they operate under different policies.
- N. Training currently being provided does not adequately prepare foster parents for the responsibilities ahead.
- O. There are different reimbursement schedules for FFA's, Guardianships and individual foster parents unrelated to services performed.
- P. All adults involved with foster children must have a security clearance. Without the supervision of a cleared adult there can be no sleepovers, no travel, not even visiting down the street. All these stringent restrictions placed on children make them feel uncomfortable and atypical.
- Q. Some social workers are not making their required regular visits with foster children.
- R. Foster parent report forms, which are to be filled out monthly, are not being returned. The DCFS is not supervising this situation.
- S. Social workers are not easily accessible to the foster children or the foster parent.
- T. The "Care Line" for foster parents is inadequate and sometimes is staffed with untrained personnel.
- U. Every child in the foster care system has been assigned an individual social worker.
- V. Department employees at every level complain that they are compelled to waste time on unproductive meetings and excessive paper work.
- W. Specialized training for social workers is not adequate. For example, some assigned social workers are not prepared to deal with medically fragile foster children.
- X. DCFS social workers do not regularly attend foster parent support group meetings.
- Y. Lack of comprehensive policies and procedures have led to unsatisfactory placement of foster children.
- Z. Some DCFS policies and procedures are on-line but even these are not complete.

- AA. Initial and proper placement of foster children is hampered by a lack of centralized coordination between departments involved in the process.
- BB. Some placement evaluations of children have been unsuitable and have led to unsatisfactory matching of children to foster parents.
- CC. Social workers' supervisors, program managers and administrators do not make random foster home visits to observe social workers in the field and to stay in touch with day-to-day workloads.
- DD. Some "at risk" children are placed in homes where the caregiver is not trained or prepared to handle the child's special needs.
- EE. DCFS employees at the program manager, supervisor and the social worker levels have indicated they feel the top administrators are too visionary and in some cases lack adequate management skills.
- FF. There is a system wide criticism of the department's leadership regarding a lack of effective administrative direction.
- GG. The staff is top heavy above the level of social worker.
- HH. There is a lack of common purpose and collegiality among members of the different departments within the DCFS staff.
- II. The DCFS agency is not in compliance with state regulations.
- JJ. The continual changing of social workers and moving a child from foster home to foster home diminishes a child's sense of security.
- KK. Social workers are being pressured to close cases rather than using "best practice."
- LL. A comprehensive written list of policies and procedures for the foster care system is not available. Verbal procedures are being interpreted differently by various members of the staff.
- MM. Timelines or deadlines assigned to a project are not enforced.
- NN. Inadequate training and lack of management skills affects the performance of everyone throughout the system.
- OO. Individual social worker's job descriptions are inadequate and not specific.
- PP. Staff within the system report foster children's case files are not organized in an orderly, consistent or comprehensible manner.

- QQ. Debriefing procedures and time off are not consistently available to social workers after death or serious injury of a child under their supervision.
- RR. Recommendation Number 63 of the 2002/2003 FCGJ report stated "A documented placement policy for foster children be completed and implemented by the Department of Children and Family Services." This recommendation has not been satisfactorily addressed and completed.

Conclusions

- A. The foster care system is complicated. It would be difficult for an experienced social worker to perform the tasks associated with a case from its inception to its conclusion.
- B. Comprehensive policies and procedures are not in place to effectively make a first placement.
- C. Some children are moved multiple times without achieving positive results.
- D. Referring to the 2002/2003 FCGJ conclusion A., "The large number of sites used in the administration of foster care services creates difficulties in communication and coordination of services." The people responsible for making the system work effectively are required to travel extensively to service clients. This causes loss of time in communication and cooperation leading to placement delays.
- E. Project timelines and deadlines are not being followed.
- F. Consistent foster care policies and procedures are not in place for social workers.
- G. Cooperation is limited between the individual social workers regarding the problems of foster parents and foster children.
- H. Job descriptions as well as policies and procedures are outdated.
- I. Recruitment of foster parents has not been effective.
- J. Fresno County is moving too slowly in implementing the Family to Family concept.
- K. There are no available statistics to analyze causes and costs of moving children from foster home to foster home.

- L. The responses to the recommendations of the 2002-03 FCGJ have not been completed.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that the Department of Children and Family Services:

- 46. Establish written comprehensive goals, policies and objectives to insure proper initial placement of foster children.
- 47. Perform reviews of files by social worker supervisors to determine that initial placement and procedures are accomplishing goals and objectives set forth by the department.
- 48. Form a team to evaluate a foster child's initial placement.
- 49. Write, install, implement, monitor and enforce comprehensive policies and procedures to effectively train employees.
- 50. Reduce the number and length of meetings throughout the department.
- 51. Teach management skills and time management to department heads, managers and supervisors and hold them accountable.
- 52. Require the immediate supervisor at any level to offer a professional counselor to assist a grieving worker.
- 53. Move different sections of the foster care program within close proximity to each other, ideally one site, to improve communication, efficiency and effectiveness.
- 54. When a project or program is under consideration, set and enforce deadlines for completion.
- 55. Train, and continue to retrain, foster parents and caregivers to help them understand the dynamics of their relationship with a foster child.
- 56. Improve Fresno County recruitment procedures for foster parents.
- 57. Require all foster children's' files be organized in the same manner with supervisors required to periodically review these files.
- 58. Accelerate the development of the Family to Family program where appropriate.

59. Assign cases, which require special skills and experience to employees who have exhibited the appropriate knowledge to deal with difficult problems.
60. Require icebreaker sessions within the first 48 hours of the child's entry into the system. Include in these sessions, the natural parents when appropriate, the foster parents, the social worker, a Court Approved Special Advocate.
61. Write job descriptions for employees of Children and Family Services with more specificity.
62. When a child has to be moved from one foster home to another, delineate a list of written procedures to be given to the new foster parents on placement. Include in a child's file all pertinent data regarding background, medications and dosage, and good as well as bad behavior before the child is moved.
63. Before a child is moved, require a supervisor to sign off on the child's file.
64. Evaluate and chart statistics regarding the movement of foster children throughout the system.
65. Encourage the County Foster Care Advisory and Oversight Committee to review various departments' procedures and evaluate duplicate services, looking to eliminate excess costs.
66. Require a social worker's cellular phone number be given to their foster parents, older foster children and the Children and Family Services duty officer so contact can be made at all times.
67. Invite and include foster parents to selected staff conferences that concern their foster child.
68. Make the existing care-line helpful. Its purpose is clearly defined as an emergency link between foster parents and the department. Require that this line be competently staffed 24-7 for the protection of the children in the system.
69. Maintain a log of social worker visits to a foster home and have it signed by the social worker and the foster parent stating particulars of that visit.
70. Future Grand Juries continue to monitor the Department of Children and Family Services Foster Care System.

HEALTH AND SOCIAL SERVICES COMMITTEE

Bill Rogers, Jr.

Mary Ann Dews

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Tony Peranick

Yvonne Setencich

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HEALTH AND SOCIAL SERVICES COMMITTEE

INTRODUCTION

The 2003/2004 Fresno County Grand Jury investigated county officials' concerns, citizens' interests and reviewed news articles regarding the Health and Human Services System. The Grand Jury investigated the reorganization of the Health and Human Services System. In-Home Supportive Services and the In-Home Supportive Services Public Authority.

The Health and Social Services Committee interviewed elected officials, department heads, members of law enforcement, relevant employees of Fresno County, and visited applicable facilities.

In-Home Supportive Services and the In-Home Supportive Services Public Authority are reported on.

IN-HOME SUPPORTIVE SERVICES

Introduction

Problems within the In-Home Supportive Services (IHSS) program were brought to the attention of 2003/2004 Fresno County Grand Jury' by several sources. The Fresno County Human Services System (HSS) has four departments. The IHSS, under the Department of Adult Services, is one of its important programs. The IHSS services are provided to the eligible aged, blind, or disabled persons who are unable to perform tasks of daily living, and who cannot safely remain in their homes unless these services are provided. IHSS is designed to be a cost-effective way to avoid out-of-home placement. The following is an explanation and history of two programs that fall under the IHSS purview. Providers employed under these two programs can be independent or family members.

The IHSS Residual Program (RP) began in 1973 and is currently funded with 65% State and 35% County Funds. Residual services are domestic, such as housecleaning, meal preparation, laundry and shopping. Only a spouse or a parent of a minor child is eligible to render these services.

The IHSS Personal Care Services Program (PCSP) began in 1994. All of the same services provided in the Residual Program are included in the PCSP. In addition, the PCSP provides such services as feeding, bathing, bowel and bladder care, dressing, ambulating assistance, and certain paramedical services ordered by a licensed health care professional. Its main focus is to provide personal care services. PCSP does not pay for services rendered by a spouse or a parent of a minor child, nor will it pay for cases receiving domestic only RP services. To qualify for PCSP, a person must have a disabling ailment that lasts for 12 months or more or an illness that is terminal. It is currently funded through 51% Federal (subject to change), 32% State, and 17% County funds.

The cost of the IHSS Program statewide in 2003/2004 is budgeted at \$1.4 billion and is projected to grow at a rate of 13% annually. These costs are driven by several factors: an aging population, family mobility leaving older family members without relatives to assist in their care, medical knowledge that is saving and extending lives and opportunities for committing fraud. All of these factors result in society having to finance this program.

State of California Assembly Bill 1682, approved July 12, 1999, mandated counties to establish an employer of record, "Public Authority", for purposes of collective bargaining or contract with a nonprofit consortium to provide for the delivery of in-home supportive services. In order to recruit, evaluate, screen, and train IHSS providers, the Welfare and Institutions Codes required that each county Board of Supervisors form a Public Authority to create a registry from which a recipient may choose a provider. Not all providers are listed in the Public Authority's registry. (See Finding G.) The Public

Authority is to act as the employer of record for IHSS providers. According to the provision of the above Codes, the Public Authority is an entity separate from the county. Therefore, provider employees of the Public Authority are not employees of the county. The Public Authority's registry assists the recipient in hiring a provider who is paid by the IHSS program. The recipient then becomes the employer of the IHSS provider.

Findings

- A. IHSS regulations addressing the responsibilities and obligations of recipients and providers in written form are limited.
- B. State legislation encourages the continued expansion of the IHSS without addressing the need for direction, cost and accountability.
- C. The IHSS program lacks oversight at the state level.
- D. In the last five years, social workers' caseloads were never lower than 300 or greater than 380. Caseloads in this range allow for follow up only on an annual basis.
- E. As of January 29, 2004, there were 11,474 authorized cases, of which 9,641 were PCSP cases and 1,833 RP cases
- F. Having only verbal instructions allows employees to have their own interpretation of their duties.
- G. As of January 29, 2004, there were 10,082 providers divided as follows:
 - 1. Relatives hired directly by recipients 6,208 (62%)
 - 2. Non-relatives hired by recipients outside the IHSS registry 3,247 (32%)
 - 3. Active providers listed in the IHSS registry 627 (6%)
- H. Family members, as providers, are difficult to monitor.
- I. The Public Authority is required to perform criminal background checks of providers, but receives no State funding for this function.
- J. A recipient's licensed health care provider can recommend in-home care.
- K. Any change in status of a recipient is required to be reported to an IHSS worker by their licensed health care provider.
- L. The recipient can select the provider of his or her choice or can select from the Public Authority's registry.

- M. IHSS recipients may select and hire a family member provider or a non-registry provider without considering skills, checking references or doing a criminal background check.
- N. Some recipients are not competent to manage the hiring, scheduling and supervision of their providers.
- O. A recipient can be manipulated by a provider due to age, frailty, mental or physical disability, or misuse of medication(s).
- P. Recipients can be subjected to physical, mental or financial abuse by their providers.
- Q. To receive IHSS benefits, the recipient must be a United States citizen or a qualified non-citizen, a California resident and be Medi-Cal qualified.
- R. Most IHSS recipients receive Supplemental Security Income/ State Supplementary Payment (SSI/SSP) income.
- S. Prior to July 2003, the State Attorney General's office was responsible for all IHSS fraud cases in Fresno County with 96 fraud referrals resulting in only three convictions and one dismissal.
- T. From July 1, 2003 to March 31, 2004, the newly formed District Attorney's IHSS Fraud Unit has already successfully brought about the following results:
 - 1. Investigations:
 - a. 124 Incoming referrals
 - b. 49 Completed
 - c. 75 Remaining Cases
 - 2. Prosecution:
 - a. 38 Cases Referred
 - b. 12 Completed Cases
 - (1). 1 Guilty Felony Trial
 - (2). 9 Guilty Pleas:
 - (a). 5 Felony
 - (b). 4 Misdemeanors
 - (3). 2 Misdemeanors with full restitution paid
 - c. 26 Remaining Cases for Prosecution
 - 3. Collections:
 - a. \$203,255.86 Estimated Loss
 - b. \$ 25,837.98 Restitution Ordered

- U. Provider time cards have inherent weaknesses, three of which are:
1. No "under penalty of perjury" clause
 2. No correlation in tracking the work performed with hours logged
 3. No method of verifying signatures
- V. The IHSS payroll processing system is performed manually.
- W. The present payroll processing system allows for providers to turn in multiple time cards. This can result in exceeding the allowable maximum of 300 hours worked monthly.
- X. It is possible for a provider, using several names, to turn in multiple time cards.
- Y. Approximately 26,000 timecards are processed per month in Fresno County.
- Z. There is a time lag of at least two months and as long as six months before the IHSS program is alerted to a recipient's death. In some cases the provider continues to turn in time cards, forging the deceased's signature.
- AA. From July 1, 2003, to December 31, 2003, the following are costs related to the IHSS program:
- | | |
|--------------|---------------------|
| County Cost | \$11,448,467 |
| State Cost | \$21,337,150 |
| Federal Cost | <u>\$24,559,808</u> |
| Total Cost | \$57,345,425 |
- BB. A recipient who commits fraud can remain in the program indefinitely. A provider who commits fraud must be convicted before being removed from the program.
- CC. Recipients also perpetrate fraud.
- DD. Consequences for committing fraud are not explained to either the recipient or provider by the initial caseworker.
- EE. In a state "IHSS ISSUE PAPER" Meeting Report dated November 13, 2003, the statement was made that they "... believe that approximately 5-10% of the cases are fraudulent, however, there is no data available to substantiate this statement."
- FF. Training of social workers to detect and report fraud has had positive results.

GG. The legal threshold of committing a misdemeanor versus a felony is \$400.

Conclusions

- A. The state mandated IHSS program is unwieldy.
- B. Benefits of this program are numerous, primarily avoiding more expensive out of home care.
- C. The program, as it was conceived, has left management to its own devices.
- D. Present laws are not encompassing or sufficient enough to control a program of this magnitude.
- E. Inadequate policies, procedures and training, leave social workers at a disadvantage in effectively performing their duties.
- F. Considering the number of cases carried by each social worker the potential for fraud exists.
- G. The IHSS, established with few regulations and little oversight, provides numerous opportunities for fraud.
- H. The present IHSS operation uses outdated, inefficient methods of bookkeeping.
- I. Without the ability to crosscheck timecard information, the present method of processing allows for fraud.
- J. The program is less efficient in the detection of fraud because of the lack of a computer system.
- K. A fraud unit established recently by the District Attorney's office has helped to prosecute fraud cases.
- L. The Public Authority's staff of 17 is responsible for only 627 providers. It is not meeting its potential effectiveness.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that In-Home Supportive Services:

- 71. Establish and publicize a specific "Hot Line" telephone number to report fraud similar to "Crime Stoppers."

72. Publicize that anyone with knowledge of a provider or recipient committing fraud is urged to report suspicions to the "Hot Line", District Attorney's office or Adult Protective Services.
73. Provide the recipient verbally and in writing with an explanation of various types of fraud, and its consequences.
74. Develop a recipient/provider handbook describing duties and responsibilities to include a signed document that they have read and understand their responsibilities, which will be placed in their respective files.
75. Adapt the forms filled out by licensed health care professionals to be more comprehensive and specific as to type and degree of a recipient's disabilities and specific needs for assistance.
76. Improve the existing checklist, specifying a recipient's lack of capabilities, for both social workers and licensed health care professionals.
77. Communicate by direct mail with all licensed health care professionals who prescribe In-Home Supportive Services care that any change in a recipient's status must be reported to the In-Home Supportive Services.
78. Improve requirements that providers report any change in the recipient's health status to In-Home Supportive Services.
79. Install a computer database that can cross reference names, addresses and social security numbers for both providers and recipients.
80. Request the Fresno County Recorder's office to provide names of the deceased to the In-Home Supportive Services at least semi-monthly.
81. Develop a comprehensive Policies and Procedures Manual to be issued to all social workers.
82. Develop a uniform recipient assessment chart to be used by all social workers.
83. Install optical scanners to read time cards calculating hours worked and verifying signatures.
84. Establish a procedure to prevent a provider from altering a timecard after it has been signed by the recipient.
85. Require all providers to be included in the Public Authority's registry.

86. Classify providers (1, 2, 3 or A, B, C) and compensate them according to their level of proficiency, e.g. ability to read and write English, understand and assist with prescriptions, CPR certified, administer injections, take vital signs or qualified to drive to necessary appointments.
87. Revise all In-Home Supportive Services forms with the help of the local District Attorney's office to ensure that, when fraud does occur, offenders will be prosecuted.
88. Train all social workers regarding revised written policies and procedures as well as new forms.
89. Train social workers to look for potential fraud situations.
90. Change the law to ensure that recipients convicted of fraud be ineligible for further In-Home Supportive Services aid.
91. Hire an investigator to make unannounced home visits to check for compliance and/or fraud.
92. It is recommended that the 2004/2005 Fresno County Grand Jury continue to investigate the In-Home Supportive Services program.

LAW ENFORCEMENT COMMITTEE

Jim Perkins, Chair

Susan Biglione

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LAW ENFORCEMENT COMMITTEE

INTRODUCTION

The Law committee of the 2003/2004 Fresno County Grand Jury visited the Fresno County Jail, Fresno County Juvenile Hall, Elkhorn Correctional Facility (ECF) and the Teilman Forward Bound Academy (FBA). The director of each facility and some instructors were interviewed. The committee spoke with the employees of California Youth Outreach (CYO) an independent non-profit corporation. The Fresno County Office of Education contracts with CYO to provide aftercare services to FBA.

The Committee met with the Chiefs of Police of Fresno and Clovis, the Sheriff of Fresno County and representative members of the Multi-Agency Gang Enforcement Consortium (MAGEC), including a captain from the California Highway Patrol, who serves as commander of this unit.

The local press and other sources brought problems regarding the Fresno Human Relations Commission to the attention of the Grand Jury. Fresno City Council members, the City Manager, a former City manager, members of the Commission and the Staff Director were interviewed.

The 2003/2004 Fresno County Grand Jury Law Enforcement Committee is reporting on the following:

- 1..... Human Relations Commission
- 2..... Elkhorn Correctional Facility and Teilman Forward Bound Academy
- 3..... Multi-Agency Gang Enforcement Consortium

CITY OF FRESNO HUMAN RELATIONS COMMISSION

Introduction

The 2003/2004 Fresno County Grand Jury examined some of the issues regarding the City of Fresno Human Relations Commission (HRC). The current HRC was formed by the Fresno City Council in 1986. The purpose of this commission is to promote peace and harmony in the community, mediate public disputes and address areas of discrimination. A Mission Statement and By-Laws were adopted, and revised in 1990, 1997 and 1998.

Findings

- A. The present commission is comprised of fourteen members; currently there are three vacancies.
- B. The HRC meets the second Thursday of each month at Fresno City Hall.
- C. According to the Commission minutes, not all Commissioners regularly attend the HRC meetings
- D. The current By-Laws do not address required attendance at meetings.
- E. Some areas of the city are not presently represented, due to unfilled appointments by the city councilmen or the mayor.
- F. Commissioners' term of office coincide with the respective appointing authority's term.
- G. The HRC provides support for specific community events.
- H. The HRC has elected to sponsor:
 - Hmong New Year Celebration
 - Martin Luther King Events
 - Cesar Chavez Holiday Events
 - Stop the Hate Candlelight Vigil
- I. The City Council has given the HRC responsibility to review the requests for funds made by non-profit service agencies.
- J. The City Council assigned the HRC the task of recommending allocation of \$600,000 of City funds to social service agencies.
- K. Some of the HRC commissioners are members or officers of the groups for which they recommend allocation of funds.

- L. The HRC failed to agree on specific allocations and as a result recommended distributing equal amounts to 37 organizations.
- M. The City Council re-allocated the funds according to the wishes of each Councilman.
- N. The HRC recently formed several sub-committees to deal with various community problems:
- Cultural Diversity Committee
 - Mediation Complaint Resolution Committee
 - Social Justice Committee
 - Special Projects Committee
- O. The 2003/2004 budget of the HRC was \$193,000, which includes:
- Special Projects \$22,900
 - Staff \$80,000
 - City Hall rent \$36,700
 - Facilities Management \$22,900
 - Miscellaneous Expenses \$30,500
- P. The sum of \$60,000 of city funds was paid to “Free Republic” in a litigation settlement, which resulted from the independent action of a member of the HRC in labeling “Free Republic” a “hate group”
- Q. The original purpose and mission of the HRC was to promote harmony and understanding between different cultures within the community
- R. The original Mission Statement and By-Laws are in the process of being revised.
- S. The HRC views part of its mission to be involved in citizen disputes and disagreements.
- T. The proposed Mission and Purpose Statement provides as follows:
- “The purpose of the Fresno Human Relations Commission is to serve as an advisory body to the City Manager, City Council and the Mayor on intergroup and human relations matters. The Commission will undertake programs, projects and activities to promote understanding and respect among racial and ethnic groups amid persons of all economic educational backgrounds and to encourage fair treatment and to prevent discriminatory practices.”

Conclusions

- A. The original purpose and mission of the HRC was to promote harmony and understanding between different cultures within the community
- B. The present Mission Statement and the proposed Mission Purpose Statement provide that the HRC work primarily on a reactive basis, when needed
- C. The function of the HRC carrying out its stated mission and purpose is not accurately reflected in the present By-Laws.
- D. Whether or not the HRC is a reactive group depends upon the personalities of the persons appointed to the Commission.
- E. No evidence has been presented to the Grand Jury that the Commissioners have received training to assist them in organizing community events, such as planning parades, acting as negotiators in citizen disputes or to allocating funds to non-profit organizations.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

93. The Human Relations Commission reflect the composition of the Fresno community.
94. The Human Relations Commission be an ad-hoc advisory committee only.
95. The Human Relations Commission become involved in disputes when requested by the proper authority.
96. The Human Relations Commission cease acting as negotiators or arbitrators in citizen disputes.
97. City funding of Special Events be eliminated.
98. The Human Relations Commission not have the responsibility of making recommendations for allocations of public funds for non-profit, charitable organizations.
99. The budget of the Human Relations Commission be reduced by eliminating:
 - Special Funding projects
 - Use of office space in City Hall
 - Facility Staff assigned to the Commission

- Facility management fees

100. The 2004/2005 Fresno County Grand Jury continue to monitor the functions of the Human Relations Commission.

ELKHORN CORRECTIONAL FACILITY AND TEILMAN FORWARD BOUND ACADEMY

Introduction

In 1997, the Elkhorn Correctional Facility (ECF) was established at the former Fresno County Sheriff's Department Branch Jail, located near Caruthers in rural Fresno County. This facility is limited to housing male juvenile offenders who have been sentenced by the Fresno County Juvenile Court.

In 1999, utilizing a state funded grant, the Fresno County Office of Education, in association with the Fresno County Probation Department, created Forward Bound Academy (FBA) located at the Teilman School campus, to provide aftercare services for the graduates of ECF.

The 2003/2004 Fresno County Grand Jury toured both the ECF and the FBA and observed the programs in action. The directors and support staff of both facilities, representatives of California Youth Outreach, an independent non-profit organization from San Jose, the Superintendent of County Schools and the Director of Court Schools were interviewed.

Findings

- A. Fresno County ECF is a boot camp type of institution for juvenile male offenders. The facility provides a military style environment along with educational and limited vocational training programs.
- B. The Culinary Arts Program at ECF provides training to interested cadets, which enables them to obtain a Food Handlers certificate.
- C. Some cadets in the Culinary Arts Program are not able to obtain a Food Handlers certificate due to graduation from ECF prior to completion of the program.
- D. The Fresno County Workforce Investment Board provides a Pre-Apprenticeship Preparedness Program (PAPP) for incarcerated youths at Fresno County Juvenile Hall and ECF.
- E. Fresno County has a contractual arrangement with Clarke Construction, the principal contractor for the new Juvenile Justice Facility, to fill 40 apprenticeship positions with qualified graduates of PAPP.

- F. The PAPP is a 320-hour course of study that prepares the youths for entry into an apprenticeship programs in carpentry, plumbing, electrical and other related trades.
- G. Ninety two percent of the young men at ECF do not qualify for the apprenticeship positions as a result of their failure to meet minimum standards in reading and mathematics.
- H. The apprenticeship positions for the graduates of PAPP will end upon their completion of the Juvenile Hall contract between Fresno County and Clark Construction.
- I. FBA, located at Teilman campus, is the court ordered provider of AfterCare programs for ECF graduates.
- J. FBA shares its campus with Fresno County's students with mental health problems and students who have been expelled from other schools.
- K. The normal amenities of a secondary school campus, such as athletic facilities, cafeteria, shops, labs and an auditorium are not part of the Teilman Campus.
- L. The Teilman campus lacks landscaping and other aesthetic features.
- M. A Master Plan for the improvement of the physical facility at Teilman campus exists. No date for the implementation of this plan has been determined
- N. There are no vocational training programs available for FBA students.

Conclusions

- A. The ECF is a successful program for the discipline, education and incarceration of juvenile offenders in a boot camp environment.
- B. The ECF has limited vocational education programs.
- C. The FBA has no vocational programs.
- D. PAPP's are necessary to qualify ECF and FBA youths for apprenticeships in the building trades.
- E. This apprenticeship program is limited to only 40 participants by contractual arrangement.

- F. ECF and FBA directors do not aggressively seek assistance and advice from local businesses and industries to further expand the program.
- G. California Youth Outreach has improved the attendance and made other program improvements at FBA.
- H. At present Teilman campus is not an adequate facility to accomplish its mission.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 101. A comprehensive plan for the implementation of vocational training programs at Elkhorn Correctional Facility and Forward Bound Academy be developed.
- 102. All programs be established in such a manner that any training begun at Elkhorn Correctional Facility can be completed at Forward Bound Academy.
- 103. The Pre-Apprenticeship Preparedness Program at Elkhorn Correctional Facility be expanded to include more cadets.
- 104. Fresno County include provisions for apprentice position for qualified youths from its juvenile correction facilities in its Requests for Proposals for construction projects
- 105. Elkhorn Correctional Facility and Forward Bound Academy administrators seek the involvement of community businesses and trade groups in providing vocational program opportunities
- 106. The Master Plan for the improvement of the Teilman School campus be implemented immediately.
- 107. The 2004/2005 Fresno County Grand Jury continues to monitor the progress of these recommendations.

MULTI-AGENCY GANG ENFORCEMENT CONSORTIUM (MAGEC)

Introduction

The 2001/2002 Fresno County Grand Jury reported on the Multi-Agency Gang Enforcement Consortium (MAGEC). The 2003/2004 Fresno County Grand Jury felt it was important to review gang activity in the County and the operation and support of MAGEC.

MAGEC is comprised of metropolitan and rural units with each unit including a tactical and investigative team. MAGEC is composed of five officers from the California Highway Patrol, nine officers from the Fresno Police Department, one officer from the Sanger Police Department and nine deputies from the Fresno County Sheriff's Department and the Fresno County District Attorney's Office provides three full-time district attorneys. MAGEC investigators are provided by the Fresno Police Department, the Fresno County Sheriff's Office, the District Attorney's Office and the Federal Alcohol, Tobacco and Firearms agency.

Findings

- A. Gang members in Fresno County continue to threaten, terrorize, and commit crimes against citizens, schools, and businesses.
- B. Fresno County and its cities benefit from MAGEC.
- C. Fresno and Sanger are the only cities in Fresno County to contribute personnel to MAGEC.
- D. Clovis, the second largest city in Fresno County, has organized gangs. Clovis does not provide staffing to MAGEC.
- E. MAGEC units do not patrol Clovis, but do respond when requested by Clovis Police.
- F. All cities in Fresno County have good working relationships with MAGEC.
- G. The Fresno County Sheriff's Department's ten criteria defining gang membership:
 - 1. Admits gang membership or association
 - 2. Is observed to associate regularly with known gang members.
 - 3. Has tattoos indicating gang membership
 - 4. Wears gang clothing, symbols, etc. to identify with a specific gang

5. Is in a photograph with known gang members and/or using gang-related hand signs
 6. Name is on gang document, hit list, or gang-related graffiti
 7. Is identified as a gang member by a reliable source (Dept. of Corrections, Probation, Parole, Gang Unit)
 8. Arrested in the company of identified gang members or associates
 9. Corresponds with know gang members or writes and/or receives correspondence about gang activities
 10. Writes about gangs (graffiti) on walls, books, papers, etc.
- H. The Fresno County Sheriff's Department's gang validation criteria are:
1. If THREE (3) or more of the gang criteria apply to an individual, he/she is considered a GANG MEMBER
 2. If TWO (2) or more of the gang criteria apply to an individual, he/she is considered an ASSOCIATE of a gang member
 3. If only ONE (1) of the criteria apply, he/she is considered a SUSPECTED gang member
- I. As of October 7, 2003, MAGEC identified 223 active gangs in Fresno County, of which 55 are active in the City of Fresno. Ethnicity of Fresno City gangs was identified as 23 Hispanic, 12 Asian, 18 African-American and 2 Anglo. Approximately 75% of gang members were or had been on probation or parole. There are 11,000 gang members within the boundaries of Fresno County.
- J. Most gang members are between the ages of 17-24.
- K. More girls and women are becoming gang members
- L. Young people choose to become gang members because of negative home environments, public schools not meeting their needs, drug activity and the need for group acceptance provided by gang membership.
- M. Recruitment of new members, in addition to members released from prison, is causing gang membership and criminal activity to escalate.
- N. In 2003, there were 18 gang related homicides in Fresno County and six gang related homicides in Fresno.
- O. The Fresno County Sheriff is finding it increasingly difficult to provide personnel for MAGEC due to budget constraints.
- P. When a civil injunction is issued by the courts, it prohibits gang members from associating with other gang members, intimidating people, using guns,

other weapons, drugs or alcohol, trespassing and requires gang members to obey laws and curfews.

- Q. Sanger has been able to successfully use the civil injunction process to curtail gang activity. The use of the civil injunction is being actively pursued in Fresno.
- R. MAGEC continues to be a model for law enforcement agencies throughout the United States.

Conclusions

- A. MAGEC has shown that peace officers from various agencies can join together to form a strong cohesive team that continues to be a vital force in suppressing gang activities.
- B. MAGEC has the support of the legal system including the District Attorney's office, the Court system, Federal agencies, California and all police agencies in Fresno County.
- C. Participation by law enforcement agencies in MAGEC is limited by funding.
- D. The use of the civil injunction process is proving to be an effective tool in the fight against gang activity.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 108. The Multi-Agency Gang Enforcement Consortium be continued to deal with escalating gang activities.
- 109. The necessary officers and resources assigned to the Multi-Agency Gang Enforcement Consortium be continued at its current level.
- 110. Fresno County Sheriff Department continue its support of Multi-Agency Gang Enforcement Consortium at the current level.
- 111. All cities within Fresno County not currently participating in Multi-Agency Gang Enforcement Consortium, including Clovis, consider active participation in the program.
- 112. Cities within Fresno County currently unable to participate in Multi-Agency Gang Enforcement Consortium seek grants or other sources of funding to provide personnel to Multi-Agency Gang Enforcement Consortium.

113. The use of the civil injunction process for gang suppression activities be expanded throughout Fresno County.

TRANSPORTATION AND AIR QUALITY COMMITTEE

Henry Chin, Chair

Susan Biglione

Robert Gutierrez

Jim Perkins

Paul Wiley

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TRANSPORTATION AND AIR QUALITY COMMITTEE

INTRODUCTION

Investigating transportation issues can no longer be limited to concerns related to the moving of people safely or transporting goods and delivering services expeditiously.

The negative impact transportation has on air quality is equally important. Moving vehicles are a major contributing source of air pollution, therefore, the study of transportation issues cannot be adequately made apart from the impact on air quality. Recognizing this fact, the 2003/2004 Fresno County Grand Jury added air quality issues to the transportation committee for investigation and reporting purposes.

Two areas of concern were investigated but not reported on; the safety problem at the railroad crossing on North Avenue in the City of Selma, and the functioning of the Fresno Traffic Operations Center. The railroad crossing was ordered to be closed permanently by the State Public Utilities Commission. The City of Selma concurred. The Traffic Operations Center is not fully operational. It will be equipped to facilitate traffic flow, reduce congestion thereby improving air quality and enhancing traffic safety.

The Transportation and Air Quality Committee, following recommendations by the 2002/2003 Fresno County Grand Jury and areas of concern expressed by citizens, has addressed and is reporting on the following:

- A. Air Quality
- B. Air Pollution and Health
- C. School Bus Transportation in Fresno County
- D. Freeway Interchanges in the City of Fresno.

AIR QUALITY

Introduction

The Transportation and Air Quality Committee of the 2003/2004 Fresno County Grand Jury undertook examination of certain air quality issues in the County. There has been substantial publicity in recent months concerning air pollution in the Central Valley of California (Valley), its causes and effects and the means of elimination. Air pollution is caused primarily by human activity and in the Valley is exacerbated by weather and topography. Numerous studies and recommendations have been made. Legislation, rules and regulations have been adopted by governmental agencies charged with the responsibility of protecting the environment.

The most important agencies involved are the Federal Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and the San Joaquin Valley Air Pollution Control District (APCD). As a result of these studies and the rules and regulations adopted by these agencies, there has been some progress in understanding the problem and in proposing solutions.

The sources of air pollution in the Valley are divided between stationary and mobile sources. Stationary sources include farm dust, burning farm waste and private fireplaces. The mobile sources are the result of engine emissions from diesel busses, trucks and other vehicles which account for more than half of Valley air pollution, but solutions to reduce these emissions are difficult to affect. Proposed solutions include enlarging and improving mass transit, evaluating and assessing diesel busses and trucks for their use and increasing the use of alternative engines and fuels.

Findings

- A. Under the Federal Clean Air Act, the EPA has primary responsibility to study the sources of air pollution and its causes and to establish standards for clean air throughout the United States. Under the same authority, California has created the ARB with broad power to make rules and regulations particularly applicable to California. This authorization has resulted in the creation of 35 air pollution control districts, one of which is the APCD.
- B. The air pollution control districts, including the APCD, have been given the power to make and enforce rules within their respective districts.
- C. The districts are autonomous and operate with their own boards of directors and professional staff, they are governed in their rule making and enforcement by the Federal Clean Air Act and by the EPA. They also must work within state law, which in many cases sets higher standards than the EPA.

- D. The APCD is a very large district, covering the Valley from Stockton in the north to Bakersfield in the south.
- E. The air pollution in the APCD is not uniform for every part, but it is sufficiently uniform to require compliance with the same rules throughout the eight county district.
- F. The APCD and South Coast District, which includes the Los Angeles basin, are the two most polluted districts in the nation.
- G. Studies have shown that pollution in the Valley includes particulate matter and ozone-forming gasses. The gasses are formed primarily by business and industry operations, agricultural activities and motor vehicle emissions. Particulate matter in the air results from some of the same sources, as well as residential wood burning, dust, farming operations and construction activity.
- H. Approximately 60% of the ozone pollution in the Valley is derived from mobile sources, including private motor vehicles, diesel trucks and busses, and trains. However, the APCD has limited authority over these sources.
- I. In 2003, the California Legislature enacted SB 700, which ended the agriculture's exemption from obtaining air-operating permits; the industry must now comply with new legislation applicable to farm activities.
- J. The Valley pollution has recently been reclassified from "severe" to "extreme" ozone non-attainment designation. The "extreme" classification means that the Valley must meet more severe compliance requirements by 2010.
- K. The "extreme" designation requires the Valley to meet the recently promulgated more stringent 8-hour clean air standard, which requires significant ozone reductions. In 2003, the Valley exceeded the 8 hour standard on 134 days.
- L. The Fresno-Madera Medical Society has established a committee to deal with educating the general public of the dangers of air pollution and make recommendations for specific action. Some of the recommendations of the Medical Society are for reducing automobile trips, eliminate wood burning in fireplaces and switch to electric power whenever possible.
- M. School busses are a serious source of pollution in the Valley.
- N. Daily more than 10,000 trucks use Highway 99 passing through Fresno, contributing to mobile sources of pollution. Many of these vehicles are from out-of-state or from other less polluted areas.

- O. Implementation of the North American Free Trade Agreement with Mexico will soon permit Mexican vehicles with less stringent regulations for engine or fuel standards to use Valley highways.
- P. Truck and bus manufacturers are required to build cleaner and more fuel efficient engines, but the fuel standards set for most parts of the country are less rigorous than those set for California. The EPA standards for engines and fuel in California are scheduled to take effect in 2007.
- Q. The Fresno Business Council in 2002 and early 2003, developed The San Joaquin Valley Air Initiative under the name, "Operation Clean Air." Under this initiative, an Air Quality Task Force was created, with a steering committee consisting of local civic and business leaders. The mission statement is, "To create a 5- year action plan that will clean our air and increase economic prosperity in the San Joaquin Valley."
- R. The Action Plan for "Operation Clean Air" has been created under the guidelines proposed by the APCD, which has the objective of bringing together political and business leaders in the district to study the issues and make recommendations for further action. A "Clean Air Summit" was held to ratify the Action Plan on April 23, 2003, but since that time, most activity has been centered on organization.
- S. Open wood burning fireplaces in private residences are sources of air pollution in the Valley. Standards have been established on a day-to-day forecast, which determines "unhealthful" or "hazardous" conditions. The public is apprised of "no burn days". In the past year, there has been only one "no burn day" forecast based on current regulation. Voluntary response from the public to discontinue fireplace burning has been good.
- T. The APCD has the power to levy fines on businesses violating clean air standards. It recently levied a fine of more than \$1 million on a Visalia plant for emissions beyond its permit. The company will also be required to invest as much as \$5 million more to bring its plant to the required clean air standards for emissions. Most fines on businesses are \$1000 or less.
- U. Financial incentives or substantial discounts for purchasing new cleaner equipment have been found to be effective.

Conclusions

- A. Enforcement of rules in place will result in cleaner or no emissions from both stationary and mobile sources of pollution.

- B. The EPA has established regulations, which will require the manufacture of cleaner burning fuel as well as more efficient engines. It has also established a timetable for action by local authorities to reduce air pollution.
- C. The State of California and the APCD have taken action to implement the rules and to establish regulations for reduction of air pollution.
- D. Mobile sources of pollution are difficult to reduce because of the need for private transportation, as well as the proliferation of vehicles from outside the Valley utilizing Valley highways.
- E. Steps have been taken by the Legislature to reduce some of the problems, such as eliminating the agricultural burning exemption from pollution control laws.
- F. Voluntary action by the public, such as reducing home fireplace wood burning and participation in incentive programs, has been partially successful.
- G. Air pollution caused by emissions from public transit vehicles and school busses can be substantially reduced or eliminated by changing to cleaner burning fuels or adopting new and available technology for such vehicles.
- H. Air pollution caused by emissions from out of state vehicles can be substantially reduced by stricter requirements and imposing fines for non-compliance.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 114. The standards established and the rules and regulations promulgated by the Environmental Protection Agency, the Air Resources Board, and the San Joaquin Valley Air Pollution Control District be enforced.
- 115. The public agencies coordinate their efforts and cooperate to make and implement rules and regulations to clean the air or substantially reduce the pollution.
- 116. Fines be levied and collected for violations of rules.
- 117. The Air Quality Task Force further pursues "Operation Clean Air" in active assistance to governmental bodies responsible for air cleanup in the Valley.
- 118. The Task Force and agencies study and make recommendations for mass transit in the Valley.

119. Anti-smog laws be adopted and implemented which will immediately reduce or eliminate pollution from trucks passing through the Valley; violators to be subjected to large fines.
120. With certain exceptions, open fireplace wood burning in private homes be prohibited at all times.
121. The San Joaquin Valley Air Pollution Control District and other public agencies institute strong incentive programs for the general public to reduce pollution and such programs be extensively publicized.

AIR POLLUTION AND HEALTH

Introduction

The 2003/2004 Fresno County Grand Jury studied the effect of air pollution in the San Joaquin Valley on health. Information and opinions on the impact of air pollution on public health were obtained from transportation officials, air quality control administrators and medical professionals.

Findings

- A. The San Joaquin Valley has the second worst air quality in the nation exceeded only by the South Coast Air Basin (Los Angeles area).
- B. During the past year, Fresno County had over 100 days when the ozone level exceeded the state standard. Ozone is an invisible gas, which is toxic to the lining of the lungs, and to which repeated exposure can cause permanent scarring.
- C. During the last year, Fresno County had over 100 days when Particulate Matter (PM) levels exceeded the state standards. PM is toxic, solid material suspended in the air. It consists of soot, ash, diesel exhaust, dust and nitrogen containing chemicals.
- D. Once fine particles of PM enter the lungs, they cannot be exhaled. PM sets off inflammatory reactions, leading to asthma attacks, heart disease, lung cancer and emphysema.
- E. Medical evidence indicates that the Valley's poor air quality makes a significant contribution to the afflictions listed above.
- F. No medical organization has official representation on the San Joaquin Valley Air Pollution Control District.
- G. The Fresno-Madera Medical Society is concerned with the health risks created by the San Joaquin Valley's poor air quality and wishes to participate in the fight against air pollution.

Conclusion

Adverse impacts on health caused by air pollution cannot be comprehensively evaluated by the San Joaquin Valley Air Pollution Control District without input from the medical profession.

Recommendation

The 2003/2004 Fresno County Grand Jury recommends that:

122. The Fresno-Madera Medical Society be included in membership of the San Joaquin Valley Air Pollution Control District's Citizen Advisory Committee.

SCHOOL BUS TRANSPORTATION IN FRESNO COUNTY

Introduction

The 2002/2003 Fresno County Grand Jury studied transit consolidation and recommended that school bus systems be consolidated with other systems in Fresno County. The 2003/2004 Fresno County Grand Jury limited its review to school bus operations within the County. The Transportation and Air Quality Committee met with the Fresno, Clovis, Central Unified Districts and Southwest Transit Agency school bus operation managers who expressed views on air pollution, consolidation, bus maintenance and special education needs in their respective districts. These districts transport students to school and to extra curricular activities provided by the school system.

Findings

- A. Older school busses are a major source of air pollution in the San Joaquin Valley.
- B. The Clovis School District (CUSD) operates a fleet of 80 large busses and other vehicles for a total of 250 units. The busses travel 1.1 million miles annually. It has a replacement schedule for its older busses and has replaced 31 % of its fleet since 1990 with busses, which run on clean diesel or compressed natural gas (CNG). The district is participating in a test program using a product called "PuriNOX" in its diesel engines. This reduces emissions but adds to the cost of operation due to a decrease in mileage per gallon and the cost of the additive.
- C. Fresno Unified School District owns a fleet of over 80 busses, some of which are equipped to transport special education students. A number of the busses date to 1975 and have registered in excess of 400,000 miles per vehicle. The School District also contracts with Laidlaw Transportation Company, leasing 177 busses with drivers. They are in the second year of a five-year contract. Approximately one-third of the busses owned by the District have been replaced with CNG or new diesel engines.
- D. Many smaller school districts in Fresno County have a few buses that were acquired since 1970. The cost of replacing a school bus is about \$135,000. The small school districts are, in many cases, unable to finance the cost of replacement of their bus fleet.
- E. Five school districts have formed the Southwest Transportation Agency, a Joint Powers Authority (JPA) providing transportation services. The Agency has a fleet of 70 busses and contracts with nine other districts to transport students from areas that are not part of the JPA. The system is also large

enough to have a bus replacement program and to contract for other services with districts within its sphere of influence.

- F. Consolidated districts or JPAs benefit the smaller districts by having the resources and personnel to pursue bus replacement programs and grants.

Conclusions

- A. School busses contribute to the air pollution in Fresno County. Older busses usually produce more pollution than new busses.
- B. Consolidated transportation operations are able to replace busses and engines as new technology becomes available. There is efficiency in the maintenance of busses and provision of services as a result of size of operation.
- C. Both air quality and ridership improve with larger more efficient systems.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

- 123. Small school districts in Fresno County, that are in close proximity with each other, consider consolidation or contracting with an existing transportation district.
- 124. Unless previously adopted, each school district develops and implements a bus replacement schedule, which meets clean air standards.
- 125. Funding for consolidation and bus replacement be sought from all available sources.

FREEWAY INTERCHANGES IN THE CITY OF FRESNO

Introduction

Extensive delays on the critically needed improvement to the freeway interchange at State Route 41 (S.R.41) and Friant Road located within the City of Fresno (City) prompted the 2003/2004 Fresno County Grand Jury to study the problem.

Findings

- A. In 1991, Caltrans staff determined the designed traffic capacity for the interchange at S.R. 41 and Friant Road would be exceeded in the near future.
- B. The northbound S.R. 41 off-ramp at Friant Road is currently experiencing hazardous congestion problems during high commute hours.
- C. The congestion problems were created by increased volumes of traffic generated by residential and commercial developments in the region.
- D. Traffic congestion adversely impacts highway safety and air quality.
- E. Caltrans has heretofore been unable to make the necessary improvements to the interchange due to lack of funds.
- F. Caltrans has informed the City of the developing traffic safety and congestion problems which will need to be corrected. The City was requested by Caltrans to collect impact fees from developers to mitigate the anticipated costs to remedy the deficiencies.
- G. The City has stated that it is unaware of any authority it has, under the Mitigation Fee Act, to impose a development fee for state highway infrastructure improvements over which it has no control.
- H. To date, the City has not collected any impact fees from developers for state highway improvements.
- I. Caltrans has no power to compel the City to collect impact fees on its behalf.
- J. Caltrans states that other local jurisdictions throughout the state, including Fresno and Madera Counties, have been able to collect impact fees for state highway improvement, pursuant to the California Environmental Quality Act, from developers when their developments add traffic to the state highways.

- K. To date, no legal challenge has been made by developers against any local jurisdiction that has collected impact fees to mitigate problems on a state highway.
- L. Fresno City's 2025 General Plan directs development to the southeast and southwest parts of the City where State Route 180 (S. R.180) is located.
- M. New subdivision projects have been approved, or are pending approval, by the City Council near the east and west extension projects of S.R. 180. In recent letters to Caltrans, the City has indicated a willingness to resolve its differences on the use of specific traffic models for traffic projections and on the method for impact fee assessment, collection and expenditure.
- N. Caltrans has provided the Council of Fresno Government (COG) a grant of \$240,000 to conduct a study on the deficiencies of all major freeway interchanges along S.R. 99, 41, 168 and 180 in Fresno and the adjacent counties.
- O. Written comments submitted by Caltrans relating to developments that impact state highways are not always included in or responded to in the staff reports to the Planning Commission and the City Council.

Conclusions

- A. North bound traffic exiting the freeway onto Friant Road now backs up into S.R.41 through lanes creating a dangerous condition. A similar problem will soon occur at the Herndon Avenue and Shaw Avenue interchanges.
- B. Improvement of the S.R. 41 interchange at Friant Road in the City will eliminate a severe traffic hazard, enhance traffic flow and improve air quality.
- C. The lack of funding precluded earlier work to increase off ramp capacity and eliminate the most congested interchange in this area.
- D. Impact fees assessments, are now being collected from developers for projected city infrastructure needs, which should include state highways improvements.
- E. As population increases, traffic safety and air quality problems will continue to mount to the disservice of the community, unless the City and Caltrans resolve their differences.

Recommendations

The 2003/2004 Fresno County Grand Jury recommends that:

126. The City address traffic issues as they affect state highways as a part of the planning process.
127. The City follow through with its expressed willingness to maintain a cooperative working relationship with Caltrans to arrive at a mutually agreeable process on impact fee assessment, collection and expenditures.
128. Grand Jury of 2004/2005 follow-up the Council of Fresno Governments report and accommodations between the City and Caltrans on the existing problems.